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LEGISLATIVE HISTORY

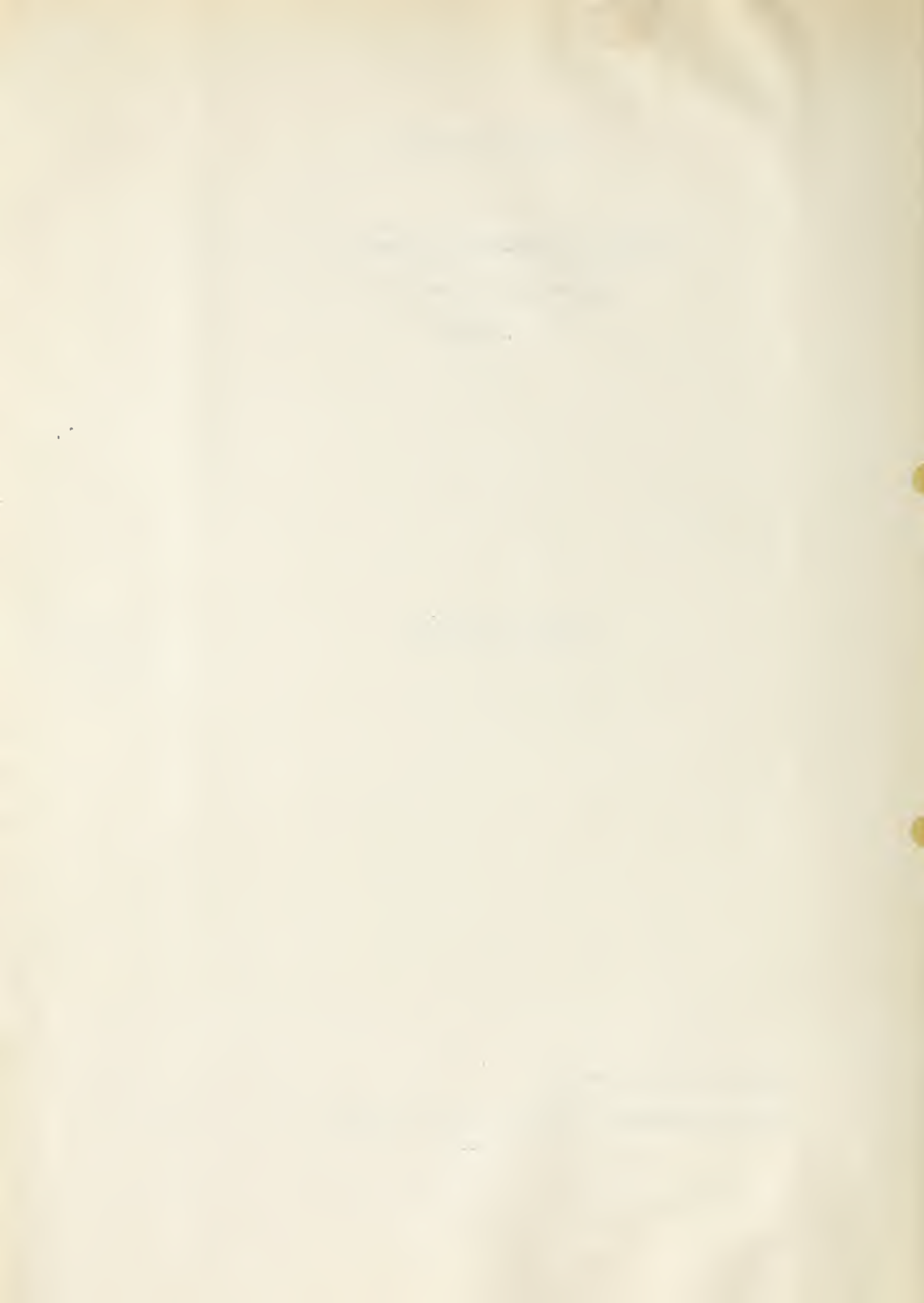
Public Law 236--78th Congress

Chapter 64--2d Session

H. R. 2580

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DIGEST OF PUBLIC LAW 236

INTERSTATE WATER COMPACT. Grants consent to a compact entered into by South Dakota and Wyoming regarding Belle Fourche River Basin waters.

INDEX AND SUMMARY OF HISTORY OF H. R. 2580

May 3, 1943	S. 1057 introduced by Senator Robertson and referred to the Senate Committee on Irrigation and Reclamation. (Companion bill).
	H. R. 2580 introduced by Rep. Barrett and referred to the House Committee on Irrigation and Reclamation. Print of the bill as introduced.
October 8, 1943	Hearings: House, H. R. 2580.
October 21, 1943	House Committee reported H. R. 2580 without amendment. House Report 788. Print of the bill as reported.
November 15, 1943	Debated in House and passed as reported.
November 16, 1943	H. R. 2580 referred to the Senate Committee on Irrigation and Reclamation. Print of the bill as referred.
February 7, 1944	H. R. 2580 reported by Senate Committee without amendment. Senate Report 683. Print of the bill as reported.
February 15, 1944	Discussed in Senate and passed as reported.
February 26, 1944	Approved. Public Law 236.



78TH CONGRESS
1ST SESSION

S. 1057

IN THE SENATE OF THE UNITED STATES

MAY 3, 1943

Mr. ROBERTSON (for himself and Mr. O'MAHONEY) introduced the following bill; which was read twice and referred to the Committee on Irrigation and Reclamation

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the consent of Congress is hereby given to a compact
- 4 authorized by the Act entitled "An Act granting the con-
- 5 sent of Congress to compacts or agreements between the

1 States of South Dakota and Wyoming with respect to the
2 division and apportionment of the waters of the Belle
3 Fourche and Cheyenne Rivers and other streams in which
4 such States are jointly interested", approved February 26,
5 1927 (44 Stat. 1247), signed by commissioners for the
6 States of South Dakota and Wyoming, on the 18th day of
7 February 1943 and thereafter ratified by the act of the
8 Legislature of South Dakota entitled "An act ratifying and
9 approving a compact between the States of Wyoming and
10 South Dakota for use of the waters of the Belle Fourche
11 River, and declaring an emergency", approved March 4,
12 1943, and the act of the Legislature of Wyoming, entitled
13 "An act to provide for the ratification and approval of the
14 Belle Fourche River Compact", approved March 3, 1943,
15 which compact reads as follows:

16 BELLE FOURCHE RIVER COMPACT

17 The States of South Dakota and Wyoming, parties sig-
18 natory to this compact (hereinafter referred to as South
19 Dakota and Wyoming, respectively, or individually as a
20 State, or collectively as the States), have resolved to con-
21 clude a compact as authorized under the Act of Congress of
22 February 26, 1927, Chapter 216, 44 Stat. 1247, and, after
23 negotiations participated in by the following named State
24 Commissioners.

1 For South Dakota :

2 M. Q. Sharpe

3 G. W. Morsman

4 S. G. Mortimer

5 W. D. Buchholz

6 For Wyoming :

7 L. C. Bishop

8 Samuel McKean

9 L. H. Robinson

10 Mrs. E. E. McKean

11 and by Howard R. Stinson, appointed as the Representative
12 of the United States of America, have agreed upon the
13 following articles, to-wit :

14 ARTICLE I

15 A. The major purposes of this compact are to provide
16 for the most efficient use of the waters of the Belle Fourche
17 River Basin (hereinafter referred to as the Basin) for
18 multiple purposes; to provide for an equitable division of such
19 waters; to remove all causes, present and future, which might
20 lead to controversies; to promote interstate comity; to recog-
21 nize that the most efficient utilization of the waters within the
22 Basin is required for the full development of the Basin; and
23 to promote joint action by the States and the United States
24 in the efficient use of water and the control of floods.

1 B. The physical and other conditions peculiar to the
2 Basin constitute the basis for this compact; and none of the
3 States hereby, nor the Congress of the United States by its
4 consent, concedes that this compact establishes any general
5 principle or precedent with respect to any other interstate
6 stream.

7 C. Either State and all others using, claiming or in any
8 manner asserting any right to the use of the waters of the
9 Belle Fourche River under the authority of that State, shall
10 be subject to the terms of this compact.

11 ARTICLE II

12 As used in this compact:

13 A. The term “Belle Fourche River” shall mean and
14 include the Belle Fourche River and all its tributaries
15 originating in Wyoming.

16 B. The term “Basin” shall mean that area in South
17 Dakota and Wyoming which is naturally drained by the
18 Belle Fourche River, and all its tributaries.

C. The term “beneficial use” is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

24 D. Where the name of the State or the term “State”
25 or “States” is used, these shall be construed to include any

1 person or entity of any nature whatsoever using, claiming, or
2 in any manner asserting any right to the use of the waters of
3 the Belle Fourche River under the authority of that State.

4 ARTICLE III

5 It shall be the duty of the two States to administer this
6 compact through the official in each State who is now or may
7 hereafter be charged with the duty of administering the public
8 water supplies, and to collect and correlate through such
9 officials the data necessary for the proper administration of
10 the provisions of this compact. Such officials may, by unani-
11 mous action, adopt rules and regulations consistent with the
12 provisions of this compact.

13 The United States Geological Survey, or whatever Fed-
14 eral agency may succeed to the functions and duties of that
15 agency, insofar as this compact is concerned, shall collaborate
16 with the officials of the States charged with the administra-
17 tion of this compact in the execution of the duty of such
18 officials in the collection, correlation, and publication of infor-
19 mation necessary for the proper administration of this
20 compact.

21 ARTICLE IV

22 Each State shall itself or in conjunction with other
23 responsible agencies cause to be established, maintained, and
24 operated such suitable water gaging stations as it finds
25 necessary to administer this compact.

ARTICLE V

1

2 A. Wyoming and South Dakota agree that the unap-
3 propriated waters of the Belle Fourche River as of the date
4 of this compact shall be allocated to each State as follows:

5 90% to South Dakota

6 10% to Wyoming;

7 Provided that allocations to Wyoming shall be exclusive of
8 the use of these waters for domestic and stock use, and
9 Wyoming shall be allowed unrestricted use for these pur-
10 poses, except that no reservoir for such use shall exceed 20
11 acre-feet in capacity. For storage of its allocated water,
12 Wyoming shall have the privilege of purchasing at cost not
13 to exceed 10% of the total storage capacity of any reservoir
14 or reservoirs constructed in Wyoming for irrigation of lands
15 in South Dakota, or may construct reservoirs itself for the
16 purpose of utilizing such water. Either State may tempo-
17 rarily divert, or store for beneficial use, any unused part of
18 the above percentages allotted to the other, but no continuing
19 right shall be established thereby.

20 B. Rights to the use of the waters of the Belle Fourche
21 River, whether based on direct diversion or storage, are
22 hereby recognized as of the date of this compact to the extent
23 these rights are valid under the law of the State in which
24 the use is made, and shall remain unimpaired hereby. These
25 rights, together with the additional allocations made under A

1 of this Article, are agreed to be an equitable apportionment
2 between the States of the waters of the Basin.

3 C. The waters allocated under A of this Article and the
4 rights recognized under B of this Article are hereinafter re-
5 ferred to collectively as the apportioned water. For the pur-
6 poses of the administration of this compact and determining
7 the apportioned water at any given date within a given
8 calendar year, there shall be taken the sum of:

9 (1) The quantity of water in acre-feet that passed the
10 Wyoming-South Dakota State line during the period from
11 January 1 of that year to that given date.

12 (2) The quantity of water in acre-feet in storage on
13 that date in all reservoirs built in Wyoming on the Belle
14 Fourche River subsequent to the date of this compact.

15 ARTICLE VI

16 Any person, entity, or State shall have the right to
17 acquire necessary property rights in another State by pur-
18 chase or through the exercise of the power of eminent
19 domain for the construction, operation and maintenance of
20 storage reservoirs and of appurtenant works, canals, and
21 conduits required for the enjoyment of the privileges granted
22 by Article V and Article VII A; provided, however, that
23 the grantees of such rights shall pay to the political subdi-
24 visions of the State in which such works are located, each
25 and every year during which such rights are enjoyed for

1 such purposes, a sum of money equivalent to the average
2 annual amount of taxes assessed against the lands and im-
3 provements thereon during the 10 years preceding the use
4 of such lands in reimbursement for the loss of taxes to said
5 political subdivision of the State.

6 ARTICLE VII

7 A. Either State shall have the right, by compliance
8 with the laws of the other State, to file applications for and
9 receive permits to construct or participate in the construction
10 and use of any dam, storage reservoir, or diversion works
11 in such State for the purpose of conserving and regulating
12 the apportioned water of the other State; provided, that
13 such right is subject to the rights of the other State to con-
14 trol, regulate, and use water apportioned to it.

15 B. Each claim hereafter initiated for storage or diver-
16 sion of water in one State for use in another State shall be
17 filed in the Office of the State Engineer of the State in which
18 the water is to be stored or diverted, and a duplicate copy of
19 the application including a map showing the character and
20 location of the proposed facilities and the lands to be irrigated
21 shall be filed in the Office of the State Engineer of the State
22 in which the water is to be used. If a portion or all the
23 lands proposed to be reclaimed are located in a State other
24 than the one in which the water is to be stored or diverted,

1 then, before approval of the application shall be granted, said
2 application shall be checked against the records of the appro-
3 priate office of the State in which the water is to be used, and
4 a notation shall be placed thereon by the officer in charge of
5 such records to the effect that the land description does not
6 indicate a conflict with existing water rights. All endorse-
7 ments shall be placed on both the original and duplicate
8 copies of all such maps filed to the end that the records in
9 both States may be complete and identical.

10 C. Appropriations may hereafter be adjudicated in the
11 State in which the water is stored or diverted, and where a
12 portion or all of the lands irrigated are in the other State, such
13 adjudications shall be confirmed in the latter State by the
14 proper authority. Each adjudication is to conform with the
15 laws of the State where the water is stored or diverted and
16 shall be recorded in the county and State where the water is
17 used.

18 ARTICLE VIII

19 In case any reservoir is constructed in Wyoming, to
20 be used principally for irrigation of lands in South Dakota,
21 sufficient water not to exceed 10 cubic feet per second shall
22 be released at all times for stock water use.

23 ARTICLE IX

24 No reservoir hereafter built solely to utilize the water

1 allocated to Wyoming shall have a capacity in excess of 1,000
2 acre-feet.

3 ARTICLE X

4 The provisions of this compact shall remain in full force
5 and effect until amended by action of the Legislature of the
6 States and consented to and approved by the Congress of the
7 United States in the same manner as this compact is required
8 to be ratified to become effective.

9 ARTICLE XI

10 This compact may be terminated at any time by unani-
11 mous consent of the States, and upon such termination, all
12 rights then established hereunder or recognized hereby shall
13 continue to be recognized as valid by the States notwithstand-
14 ing the termination of the other provisions of the compact.

15 ARTICLE XII

16 Nothing in this compact shall be construed to limit or
17 prevent either State from instituting or maintaining any ac-
18 tion or proceeding, legal or equitable, in any Federal court
19 or the United States Supreme Court for the protection of any
20 right under this compact or the enforcement of any of its
21 provisions.

22 ARTICLE XIII

23 Nothing in this compact shall be deemed:

24 A. To impair or affect any rights or powers of the
25 United States, its agencies, or instrumentalities, in and to

1 the use of the waters of the Belle Fourche River nor its
2 capacity to acquire rights in and to the use of said waters;

3 B. To subject any property of the United States, its
4 agencies, or instrumentalities to taxation by either State or
5 subdivision thereof, nor to create an obligation on the part of
6 the United States, its agencies, or instrumentalities, by reason
7 of the acquisition, construction or operation of any property
8 or works of whatsoever kind, to make any payments to any
9 State or political subdivision thereof, State agency, municipi-
10 pality, or entity whatsoever in reimbursement for the loss of
11 taxes;

12 C. To subject any property of the United States, its
13 agencies, or instrumentalities, to the laws of any State to an
14 extent other than the extent to which these laws would apply
15 without regard to the compact.

16 ARTICLE XIV

17 This compact shall become operative when approved by
18 the Legislature of each of the States, and when consented to
19 by the Congress of the United States by legislation providing,
20 among other things, that:

21 A. Any beneficial uses hereafter made by the United
22 States, or those acting by or under its authority, within a
23 State, of the waters allocated by this compact, shall be within
24 the allocations hereinabove made for use in that State and

1 shall be taken into account in determining the extent of use
2 within that State.

3 B. The United States, or those acting by or under its
4 authority, in the exercise of rights or powers arising from
5 whatever jurisdiction the United States has in, over and to
6 the waters of the Belle Fourche River and all its tributaries,
7 shall recognize, to the extent consistent with the best utiliza-
8 tion of the waters for multiple purposes, that beneficial use
9 of the waters within the Basin is of paramount importance
10 to development of the Basin, and no exercise of such power
11 or right thereby that would interfere with the full beneficial
12 use of the waters shall be made except upon a determination,
13 giving due consideration to the objectives of this compact
14 and after consultation with all interested Federal agencies
15 and the State officials charged with the administration of this
16 compact, that such exercise is in the interest of the best
17 utilization of such waters for multiple purpose.

18 C. The United States, or those acting by or under its
19 authority, will recognize any established use, for domestic and
20 irrigation purposes, of the apportioned waters which may be
21 impaired by the exercise of Federal jurisdiction in, over, and
22 to such waters; provided, that such use is being exercised
23 beneficially, is valid under the laws of the appropriate State
24 and in conformity with this compact at the time of the im-
25 pairment thereof, and was validly initiated under State law

1 prior to the initiation or authorization of the Federal pro-
 2 gram or project which causes such impairment.

3 ARTICLE XV

4 Should a court of competent jurisdiction hold any part
 5 of this compact to be contrary to the constitution of any State
 6 or of the United States, all other severable provisions shall
 7 continue in full force and effect.

8 In Witness Whereof the Commissioners have signed this
 9 compact in triplicate original, one of which shall be filed in
 10 the archives of the Department of State of the United States
 11 of America and shall be deemed the authoritative original,
 12 and of which a duly certified copy shall be forwarded to the
 13 Governor of each of the States.

14 Done at the City of Cheyenne in the State of Wyoming,
 15 this 18th day of February, in the year of Our Lord, One
 16 Thousand Nine Hundred and Forty-three.

17 Commissioners for South Dakota

18 (Sgd) M. Q. Sharpe

19 M. Q. SHARPE

20 (Sgd) G. W. Morsman

21 G. W. MORSMAN

22 (Sgd) S. G. Mortimer

23 S. G. MORTIMER

24 (Sgd) W. D. Buchholz

25 W. D. BUCHHOLZ

1 Commissioners for Wyoming

2 (Sgd) L. C. Bishop

3 L. C. BISHOP

4 (Sgd) Samuel McKean

5 SAMUEL McKEAN

6 (Sgd) L. H. Robinson

7 L. H. ROBINSON

8 (Sgd) Mrs. E. E. McKean

9 MRS. E. E. McKEAN

10 I have participated in the negotiation of this compact
11 and intend to report favorably thereon to the Congress of the
12 United States.

13 (Sgd) Howard R. Stinson

14 HOWARD R. STINSON,

15 Representative of the United States of America.

16 SEC. 2. (a) In order that the conditions stated in article
17 XIV of the compact hereby consented to shall be met and
18 that the compact shall be and continue to be operative, the
19 following provisions are enacted:

20 (1) Any beneficial uses hereafter made by the United
21 States, or those acting by or under its authority, within a
22 State, of the waters allocated by such compact, shall be within
23 the allocations made by such compact for use in that State
24 and shall be taken into account in determining the extent of
25 use within that State;

1 (2) The United States, or those acting by or under
2 its authority, in the exercise of rights or powers arising from
3 whatever jurisdiction the United States has in, over, and to
4 the waters of the Belle Fourche River and all its tributaries
5 shall recognize, to the extent consistent with the best utiliza-
6 tion of the waters for multiple purposes, that beneficial use
7 of the waters within the Basin is of paramount importance to
8 the development of the Basin; and no exercise of such power
9 or right thereby that would interfere with the full beneficial
10 use of the waters within the Basin shall be made except upon
11 a determination, giving due consideration to the objectives of
12 such compact and after consultation with all interested
13 Federal agencies and the State officials charged with the
14 administration of such compact, that such exercise is in the
15 interest of the best utilization of such waters for multiple
16 purposes;

17 (3) The United States, or those acting by or under its
18 authority, will recognize any established use, for domestic
19 and irrigation purposes, of the apportioned water which may
20 be impaired by the exercise of Federal jurisdiction in, over,
21 and to such water: *Provided*, That such use is being exer-
22 cised beneficially, is valid under the laws of the appropriate
23 State and in conformity with such compact at the time of
24 the impairment thereof, and was validly initiated under State

1 law prior to the initiation or authorization of the Federal
 2 program or project which causes such impairment.

3 (b) As used in this section, the following terms: “ben-
 4 eficial use”, “Basin”, and “apportioned water”, shall have
 5 the same meanings as those ascribed to them in the compact
 6 consented to by this Act.

78TH CONGRESS
 1ST Session

S. 1057

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

By Mr. ROBERTSON and Mr. O'MAHONEY

MAY 3, 1943

Read twice and referred to the Committee on
 Irrigation and Reclamation

bridge across the Columbia River, at or near Astoria, Oreg.;

H. R. 2370. An act providing for the suspension of annual assessment work on mining claims held by location in the United States, including the Territory of Alaska; and

H. J. Res. 14. Joint resolution authorizing the execution of certain obligations under the treaties of 1903 and 1936 with Panama, and other commitments.

BILLS PRESENTED TO THE PRESIDENT

Mr. KLEIN, from the Committee on Enrolled Bills, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On April 23, 1943:

H. J. Res. 113. Joint resolution to extend the provisions of the Bituminous Coal Act of 1937 for a period of 30 days.

On May 3, 1943:

H. R. 1114. An act to revive and reenact an act approved June 13, 1924 (48 Stat. 947), as amended, authorizing construction of a toll bridge across the Columbia River, at or near Astoria, Oreg.;

H. R. 2370. An act providing for the suspension of annual assessment work on mining claims held by location in the United States, including the Territory of Alaska; and

H. J. Res. 14. Joint resolution authorizing the execution of certain obligations under the treaties of 1903 and 1936 with Panama, and other commitments.

ADJOURNMENT

Mr. LESINSKI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p. m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 4, 1943, at 11 o'clock a. m.

COMMITTEE HEARINGS

COMMITTEE ON INVALID PENSIONS

(Thursday, May 6, 1943)

There will be a public meeting of the Committee on Invalid Pensions at 10:30 a. m. in the committee room, 247 House Office Building, on Thursday, May 6, to consider H. R. 85, a bill to amend the act of March 3, 1927, entitled "An act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes," and H. R. 1905, a bill to liberalize the provisions of existing laws governing the granting of service pensions to certain soldiers and widows of deceased soldiers who served in the Indian wars from 1817 to 1898, and for other purposes.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

(Thursday, May 6, 1943)

There will be a meeting of the subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Thursday, May 6, 1943.

Business to be considered: Public hearing on H. R. 2326, "a bill to provide for the training of nurses for the armed forces, governmental and civilian hospitals, health agencies, and war industries, through grants to institutions providing such training, and for other purposes."

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

Notice of postponement of hearing

(Thursday, May 13, 1943)

As advised in notice of March 10, 1943, Congressman BATES of Massachusetts, patron of the bill H. R. 1766, upon which hearings were scheduled on April 8, 1943, is a member of the Committee on Naval Affairs and of a subcommittee of that committee which has arranged a schedule of hearings throughout the country, which will compel Congressman BATES of Massachusetts to be absent from Washington on April 8 and also April 15.

The chairman of the committee and the Commissioner of Fisheries will be out of town on intervening dates which will necessitate a further postponement of the hearing until May 13, 1943. You are hereby notified that the hearings scheduled for April 8, and postponed until April 15, have been postponed to May 13, 1943, at 10 a. m., at which time the hearings will follow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

356. A letter from the Secretary of the Navy, transmitting a draft of a proposed bill to extend the effective date of the act of December 17, 1941, relating to additional safeguards to the radio communications service of ships of the United States; to the Committee on the Merchant Marine and Fisheries.

357. A letter from the Acting Secretary of the Interior, transmitting various legislation passed by Municipal Council of St. Croix with regard to creating a commission to regulate and control the prices of foodstuffs; to require the superintendent of public works to give attention to and make necessary repairs; and also for the retention of the Fredriksted branch of the Virgin Islands National Bank; to the Committee on Insular Affairs.

358. A letter from the president, Board of Commissioners, District of Columbia, transmitting a draft of a proposed bill to designate the public library of the District of Columbia a public depository for Government publications; to the Committee on Printing.

359. A letter from the Secretary of the Interior, transmitting a draft of a proposed bill to add certain lands to the Upper Mississippi River Wildlife and Fish Refuge; to the Committee on Indian Affairs.

360. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Federal Security Agency, for the fiscal year 1943, in the amount of \$229,500 (H. Doc. No. 175); to the Committee on Appropriations and ordered to be printed.

361. A communication from the President of the United States, transmitting supplemental estimate of appropriation for the Department of the Interior for the fiscal year 1944, amounting to \$16,400,000, in the form of an amendment to the Budget for said fiscal year (H. Doc. No. 180); to the Committee on Appropriations and order to be printed.

362. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Office for Emergency Management, War Production Board, fiscal year 1943, amounting to \$5,027,000 (H. Doc. No. 174); to the Committee on Appropriations and ordered to be printed.

363. A communication from the President of the United States, transmitting a draft of a proposed provision pertaining to an existing appropriation of the emergency fund for the President (H. Doc. No. 189); to the Committee on Appropriations and ordered to be printed.

364. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the Department of the Interior for the fiscal year 1943 amounting to \$78,100, and drafts of proposed provisions pertaining to existing appropriations (H. Doc. No. 183); to the Committee on Appropriations and ordered to be printed.

365. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Treasury Department for the fiscal year 1943 amounting to \$3,500 (H. Doc. No. 182); to the Committee on Appropriations and ordered to be printed.

366. A communication from the President of the United States, transmitting estimates of appropriations for the War Manpower Commission of the Office for Emergency Management for the fiscal year 1944, amounting to \$181,830,000 (H. Doc. No. 173); to the Committee on Appropriations and ordered to be printed.

367. A letter from the Acting Secretary of the Interior, transmitting pursuant to section 16 of the Organic Act of the Virgin Islands of the United States, approved June 22, 1936, which requires that all laws enacted by the Legislative Assembly of the Virgin Islands shall be reported by the Governor to the Secretary of the Interior and by the Secretary of the Interior to the Congress, I am transmitting herewith one copy of the following legislation passed by the Legislative Assembly of the Virgin Islands:

Bill No. 4, law concerning parole of prisoners; to the Committee on Insular Affairs.

368. A letter from the Secretary of the Interior, transmitting a draft of a proposed bill to authorize adjustments of irrigation charges in certain land exchanges within Indian irrigation projects; to the Committee on Indian Affairs.

369. A letter from the President, Board of Commissioners, District of Columbia, transmitting a draft of a proposed bill to regulate the placing of children in family homes, and for other purposes; to the Committee on the District of Columbia.

370. A letter from the Chairman, United States Employees' Compensation Commission, transmitting a draft of a proposed bill to amend the act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended; to the Committee on the Judiciary.

371. A letter from the Secretary of the Navy, transmitting a draft of a proposed bill to amend the first paragraph of section 10 of the Pay Readjustment Act of 1942, to provide for allowances to midshipmen of the Naval Reserve for quarters and subsistence, when not furnished in kind; to the Committee on Military Affairs.

372. A letter from the Chairman, United States Maritime Commission, transmitting, report of contracts entered into or modified under authority of Public Law 46 for the period beginning January 1, 1943, and ending March 31, 1943; to the Committee on the Merchant Marine and Fisheries.

373. A letter from the Archivist of the United States, transmitting lists of papers, recommended to him for disposal by certain agencies of the Federal Government; to the Committee on the Disposition of Executive Papers.

374. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the fiscal year 1943, amounting in all to \$122,050,900, to cover the cost of additional compensation granted to certain employees of the Federal Government by the act of August 1, 1942 (Public Law 694), the act of December 22, 1942 (Public Law 821), the act of April 9, 1943 (Public Law 25), and the pending overtime pay bill (H. Doc. No. 184); to the Committee on Appropriations and ordered to be printed.

375. A communication from the President of the United States, transmitting a draft of a proposed provision pertaining to appropriations for the Treasury Department for the fiscal years 1943 and 1944 (H. Doc. No. 190); to the Committee on Appropriations and ordered to be printed.

376. A communication from the President of the United States, transmitting supplemental estimates of appropriation for the Federal Security Agency for the fiscal year 1943 in the amount of \$695,000, and supplemental estimates of appropriation for the fiscal year 1944, amounting to \$215,000, the latter in the form of amendments to the Budget for said fiscal year (H. Doc. No. 191); to the Committee on Appropriations and ordered to be printed.

377. A communication from the President of the United States, transmitting estimates of appropriations for defense aid, for the fiscal year 1944, amounting to \$6,423,629,000, and proposed provisions affecting said estimates (H. Doc. No. 179); to the Committee on Appropriations and ordered to be printed.

378. A communication from the President of the United States, transmitting an estimate of appropriation for the National War Labor Board of the Office for Emergency Management for the fiscal year 1944, amounting to \$14,341,300 (H. Doc. No. 178); to the Committee on Appropriations and ordered to be printed.

379. A communication from the President of the United States, transmitting supplemental estimates of appropriation in the form of amendments to the Budget for the Federal Security Agency for the fiscal year 1944, amounting to \$99,000 (H. Doc. No. 177); to the Committee on Appropriations and ordered to be printed.

380. A communication from the President of the United States transmitting an estimate of appropriation for the Veterans' Administration in the amount of \$500,000 (H. Doc. No. 176); to the Committee on Appropriations and ordered to be printed.

381. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the Federal Works Agency for the fiscal year 1943, amounting to \$2,079,800 (H. Doc. No. 185); to the Committee on Appropriations and ordered to be printed.

382. A letter from the President, United States Civil Service Commission, transmitting a draft of a proposed bill amending section 2 (b) of the act of November 26, 1940 (54 Stat. 1211); to the Committee on the Civil Service.

383. A letter from the Secretary, Department of Agriculture, transmitting a draft of a proposed bill to amend section 19 of the Permanent Appropriation Repeal Act of June 26, 1934; to the Committee on Appropriations.

384. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated November 13, 1942, submitting a report, together with accompanying papers and illustrations, on a preliminary examination and survey of Fountaine Qui Buaille (Fountain) River and its tributaries, Colorado, authorized by the Flood Control Act approved on August 28, 1937, and of Fountaine Qui Vouille River, Colo., authorized by the Flood Control Act approved on June 28, 1938 (H. Doc. No. 186); to the

Committee on Flood Control and ordered to be printed.

385. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Treasury Department for the fiscal year 1943, amounting to \$500,000 (H. Doc. No. 181); to the Committee on Appropriations and ordered to be printed.

386. A communication from the President of the United States, transmitting a draft of a proposed provision pertaining to the foreign war relief appropriation for the fiscal year 1943, extending its availability until June 30, 1944 (H. Doc. No. 188); to the Committee on Appropriations and ordered to be printed.

387. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of State, for the fiscal year 1943, amounting to \$20,000 (H. Doc. No. 187); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORAND:

H. R. 2577. A bill to provide for the current payment of the individual income tax, and for other purposes; to the Committee on Ways and Means.

By Mr. ANGELL:

H. R. 2578. A bill to provide pension benefits for certain Spanish-American War veterans equivalent to those granted to Civil War veterans; to the Committee on Pensions.

By Mr. ANDERSON of California:

H. R. 2579. A bill to limit the provisions of certain laws relating to the pay and promotion on the retired lists of the Navy, the Marine Corps, the Coast Guard, or the Coast and Geodetic Survey, of commanded officers; to the Committee on Naval Affairs.

By Mr. BARRETT:

H. R. 2580. A bill to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. BRADLEY of Pennsylvania:

H. R. 2581. A bill authorizing the acquisition and conversion or construction of certain landing craft, district craft, and special boats for the United States Navy, and for other purposes; to the Committee on Naval Affairs.

By Mr. BURDICK:

H. R. 2582. A bill to provide for the adjustment of claims of the United States in respect of emergency crop and feed loans made by the Farm Credit Administrator prior to 1941; to the Committee on Agriculture.

By Mr. HEBERT:

H. R. 2583. A bill to provide for the reorganization of the Marine Corps, and for other purposes; to the Committee on Naval Affairs.

By Mr. HEFFERNAN:

H. R. 2584. A bill to abolish certain naval trust funds and deposits thereto, and to simplify naval accounting procedure, and for other purposes; to the Committee on Naval Affairs.

By Mr. MURRAY of Tennessee:

H. R. 2585. A bill for the equalization of letter carriers; to the Committee on the Post Office and Post Roads.

By Mr. RANDOLPH:

H. R. 2586 (by request). A bill to remove certain restrictions relating to the appointment of retired commissioned officers to civilian positions, and for other purposes; to the Committee on the Civil Service.

By Mr. SASSCER:

H. R. 2587. A bill to amend sections 2 and 4 of the act approved June 27, 1942, entitled "An act to authorize the appointment of commissioned warrant and warrant officers to commissioned rank in the line and staff corps of the Navy, Marine Corps, and Coast Guard, and for other purposes"; to the Committee on Naval Affairs.

By Mr. VINCENT of Kentucky:

H. R. 2588. A bill to provide a penalty for violation of regulations or orders with respect to persons entering, remaining in, leaving, or committing certain acts within or upon vessels, harbors, ports, and water-front facilities; to the Committee on Naval Affairs.

By Mr. WOODRUFF of Michigan:

H. R. 2589. A bill to regulate and promote the foreign trade of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. EBERHARTER:

H. R. 2590. A bill to prohibit States from redistricting their congressional districts or reapportioning their Representatives in Congress more than once in any one decennial census period; to the Committee on the Census.

By Mr. BARRETT:

H. R. 2591. A bill to amend section 2 of the act entitled "An act for the preservation of American antiquities," approved June 8, 1906, with respect to the creation of national monuments; to the Committee on the Public Lands.

By Mr. FISH:

H. R. 2592. A bill to amend the Selective Training and Service Act of 1940, to repeal and prohibit the issuance of any directive or regulation preventing any member of the military forces on active duty from becoming a candidate for or seek or accept election to any Federal public office not held previously when he or she entered upon active duty; to the Committee on Military Affairs.

By Mr. FULMER:

H. R. 2593. A bill to repeal the tax on amounts paid for the transportation of property; to the Committee on Ways and Means.

By Mr. LUTHER A. JOHNSON:

H. R. 2594. A bill relating to the use and operation by the United States of certain plants in the interests of the national defense; to the Committee on Military Affairs.

H. R. 2595. A bill prohibiting certain acts interfering with the national-defense program or with normal Government activity, and for other purposes; to the Committee on the Judiciary.

By Mr. PETERSON of Florida:

H. R. 2596. A bill to protect Naval Petroleum Reserve No. 1; to the Committee on the Public Lands.

By Mr. VOORHIS of California:

H. R. 2597. A bill to amend the act entitled "An act to provide for continuing payment of pay and allowances of personnel of the Army, Navy, Marine Corps, and Coast Guard, including the retired and Reserve components thereof; the Coast and Geodetic Survey and the Public Health Service, and civilian employees of the executive departments, independent establishments, and agencies during periods of absence from post of duty, and for other purposes," for the purpose of extending its provisions to include employees of contractors engaged on public works outside the continental limits of the United States or in Alaska; to the Committee on Military Affairs.

By Mr. BATES of Massachusetts:

H. J. Res. 118. Joint resolution authorizing the Secretary of the Navy to construct and the President of the United States to present to the people of St. Lawrence, Newfoundland, on behalf of the people of the United States, a hospital, dispensary, or other memorial, for heroic services to men of the United States Navy; to the Committee on Naval Affairs.

78TH CONGRESS
1ST SESSION

H. R. 2580

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1943

Mr. BARRETT introduced the following bill; which was referred to the Committee on Irrigation and Reclamation

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the consent of Congress is hereby given to a compact
4 authorized by the Act entitled "An Act granting the consent
5 of Congress to compacts or agreements between the States
6 of South Dakota and Wyoming with respect to the division
7 and apportionment of the waters of the Belle Fourche and
8 Cheyenne Rivers and other streams in which such States
9 are jointly interested", approved February 26, 1927 (44

1 Stat. 1247), signed by commissioners for the States of
 2 South Dakota and Wyoming, on the 18th day of February
 3 1943 and thereafter ratified by the act of the Legislature
 4 of South Dakota entitled "An act ratifying and approving
 5 a compact between the States of Wyoming and South
 6 Dakota for use of the waters of the Belle Fourche River,
 7 and declaring an emergency", approved March 4, 1943 and
 8 the act of the Legislature of Wyoming entitled "An act to
 9 provide for the ratification and approval of the Belle Fourche
 10 River Compact", approved March 3, 1943, which compact
 11 reads as follows:

12 BELLE FOURCHE RIVER COMPACT

13 The States of South Dakota and Wyoming, parties signa-
 14 tory to this compact (hereinafter referred to as South Dakota
 15 and Wyoming, respectively, or individually as a State, or
 16 collectively as the States), have resolved to conclude a com-
 17 pact as authorized under the Act of Congress of February
 18 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotia-
 19 tions participated in by the following named State Com-
 20 missioners.

21 For South Dakota:

22 M. Q. Sharpe

23 G. W. Morsman

24 S. G. Mortimer

25 W. D. Buchholz

For Wyoming:

L. C. Bishop

Samuel McKean

L. H. Robinson

Mrs. E. E. McKean

and by Howard R. Stinson, appointed as the Representative of the United States of America, have agreed upon the following articles, to-wit:

ARTICLE I

A. The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the Basin) for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is required for the full development of the Basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

B. The physical and other conditions peculiar to the Basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

1 C. Either State and all others using, claiming or in any
2 manner asserting any right to the use of the waters of the
3 Belle Fourche River under the authority of that State, shall
4 be subject to the terms of this compact.

5 ARTICLE II

6 As used in this compact:

7 A. The term "Belle Fourche River" shall mean and
8 include the Belle Fourche River and all its tributaries orig-
9 inating in Wyoming.

10 B. The term "Basin" shall mean that area in South
11 Dakota and Wyoming which is naturally drained by the
12 Belle Fourche River, and all its tributaries.

13 C. The term "beneficial use" is herein defined to be
14 that use by which the water supply of a drainage basin is
15 depleted when usefully employed by the activities of man,
16 and includes water lost by evaporation, and other natural
17 causes from streams, canals, ditches, irrigated areas, and
18 reservoirs.

19 D. Where the name of the State or the term "State" or
20 "States" is used, these shall be construed to include any
21 person or entity of any nature whatsoever using, claiming, or
22 in any manner asserting any right to the use of the waters of
23 the Belle Fourche River under the authority of that State.

24 ARTICLE III

25 It shall be the duty of the two States to administer this

1 compact through the official in each State who is now or may
2 hereafter be charged with the duty of administering the public
3 water supplies, and to collect and correlate through such
4 officials the data necessary for the proper administration of
5 the provisions of this compact. Such officials may, by unani-
6 mous action, adopt rules and regulations consistent with the
7 provisions of this compact.

8 The United States Geological Survey, or whatever Fed-
9 eral agency may succeed to the functions and duties of that
10 agency, insofar as this compact is concerned, shall collaborate
11 with the officials of the States charged with the administration
12 of this compact in the execution of the duty of such officials in
13 the collection, correlation, and publication of information
14 necessary for the proper administration of this compact.

15 ARTICLE IV

16 Each State shall itself or in conjunction with other re-
17 sponsible agencies cause to be established, maintained, and
18 operated such suitable water gaging stations as it finds neces-
19 sary to administer this compact.

20 ARTICLE V

21 A. Wyoming and South Dakota agree that the unappro-
22 priated waters of the Belle Fourche River as of the date of
23 this compact shall be allocated to each State as follows:

24 90% to South Dakota

25 10% to Wyoming;

1 Provided that allocations to Wyoming shall be exclusive of
2 the use of these waters for domestic and stock use, and
3 Wyoming shall be allowed unrestricted use for these pur-
4 poses, except that no reservoir for such use shall exceed 20
5 acre-feet in capacity. For storage of its allocated water,
6 Wyoming shall have the privilege of purchasing at cost
7 not to exceed 10% of the total storage capacity of any
8 reservoir or reservoirs constructed in Wyoming for irrigation
9 of lands in South Dakota, or may construct reservoirs
10 itself for the purpose of utilizing such water. Either State
11 may temporarily divert, or store for beneficial use, any
12 unused part of the above percentages allotted to the other,
13 but no continuing right shall be established thereby.

14 B. Rights to the use of the waters of the Belle Fourche
15 River, whether based on direct diversion or storage, are
16 hereby recognized as of the date of this compact to the
17 extent these rights are valid under the law of the State in
18 which the use is made, and shall remain unimpaired hereby.
19 These rights, together with the additional allocations made
20 under A of this Article, are agreed to be an equitable appor-
21 tionment between the States of the waters of the Basin.

22 C. The waters allocated under A of this Article and the
23 rights recognized under B of this Article are hereinafter re-
24 ferred to collectively as the apportioned water. For the
25 purposes of the administration of this compact and deter-

1 mining the apportioned water at any given date within a
2 given calendar year, there shall be taken the sum of:

3 (1) The quantity of water in acre-feet that passed the
4 Wyoming-South Dakota State line during the period from
5 January 1 of that year to that given date.

6 (2) The quantity of water in acre-feet in storage on
7 that date in all reservoirs built in Wyoming on the Belle
8 Fourche River subsequent to the date of this compact.

9 ARTICLE VI

10 Any person, entity, or State shall have the right to
11 acquire necessary property rights in another State by pur-
12 chase or through the exercise of the power of eminent domain
13 for the construction, operation and maintenance of storage
14 reservoirs and of appurtenant works, canals, and conduits
15 required for the enjoyment of the privileges granted by
16 Article V and Article VII A; provided, however, that the
17 grantees of such rights shall pay to the political subdivisions
18 of the State in which such works are located, each and every
19 year during which such rights are enjoyed for such pur-
20 poses, a sum of money equivalent to the average annual
21 amount of taxes assessed against the lands and improvements
22 thereon during the 10 years preceding the use of such lands
23 in reimbursement for the loss of taxes to said political sub-
24 division of the State.

1

ARTICLE VII

2 A. Either State shall have the right, by compliance with
3 the laws of the other State, to file applications for and receive
4 permits to construct or participate in the construction and
5 use of any dam, storage reservoir, or diversion works in such
6 State for the purpose of conserving and regulating the appor-
7 tioned water of the other State; provided, that such right is
8 subject to the rights of the other State to control, regulate,
9 and use water apportioned to it.

10 B. Each claim hereafter initiated for storage or diversion
11 of water in one State for use in another State shall be filed
12 in the Office of the State Engineer of the State in which the
13 water is to be stored or diverted, and a duplicate copy of the
14 application including a map showing the character and loca-
15 tion of the proposed facilities and the lands to be irrigated
16 shall be filed in the Office of the State Engineer of the State
17 in which the water is to be used. If a portion or all the
18 lands proposed to be reclaimed are located in a State other
19 than the one in which the water is to be stored or diverted,
20 then, before approval of the application shall be granted, said
21 application shall be checked against the records of the ap-
22 propriate office of the State in which the water is to be used,
23 and a notation shall be placed thereon by the officer in charge
24 of such records to the effect that the land description does not
25 indicate a conflict with existing water rights. All endorse-

ments shall be placed on both the original and duplicate copies of all such maps filed to the end that the records in both States may be complete and identical.

C. Appropriations may hereafter be adjudicated in the State in which the water is stored or diverted, and where a portion or all of the lands irrigated are in the other State, such adjudications shall be confirmed in the latter State by the proper authority. Each adjudication is to conform with the laws of the State where the water is stored or diverted and shall be recorded in the county and State where the water is used.

ARTICLE VIII

In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

ARTICLE IX

No reservoir hereafter built solely to utilize the water allocated to Wyoming shall have a capacity in excess of 1,000 acre-feet.

ARTICLE X

The provisions of this compact shall remain in full force and effect until amended by action of the Legislature of the States and consented to and approved by the Congress of

1 the United States in the same manner as this compact is
2 required to be ratified to become effective.

3 ARTICLE XI

4 This compact may be terminated at any time by unani-
5 mous consent of the States, and upon such termination, all
6 rights then established hereunder or recognized hereby shall
7 continue to be recognized as valid by the States notwith-
8 standing the termination of the other provisions of the
9 compact.

10 ARTICLE XII

11 Nothing in this compact shall be construed to limit or
12 prevent either State from instituting or maintaining any
13 action or proceeding, legal or equitable, in any Federal court
14 or the United States Supreme Court for the protection of any
15 right under this compact or the enforcement of any of its
16 provisions.

17 ARTICLE XIII

18 Nothing in this compact shall be deemed:

19 A. To impair or affect any rights or powers of the
20 United States, its agencies, or instrumentalities, in and to
21 the use of the waters of the Belle Fourche River nor its
22 capacity to acquire rights in and to the use of said waters;

23 B. To subject any property of the United States, its
24 agencies, or instrumentalities to taxation by either State or
25 subdivision thereof, nor to create an obligation on the part

1 of the United States, its agencies, or instrumentalities, by
2 reason of the acquisition, construction or operation of any
3 property or works of whatsoever kind, to make any pay-
4 ments to any State or political subdivision thereof, State
5 agency, municipality, or entity whatsoever in reimbursement
6 for the loss of taxes;

7 C. To subject any property of the United States, its agen-
8 cies, or instrumentalities, to the laws of any State to an
9 extent other than the extent to which these laws would apply
10 without regard to the compact.

11 ARTICLE XIV

12 This compact shall become operative when approved by
13 the Legislature of each of the States, and when consented to
14 by the Congress of the United States by legislation provid-
15 ing, among other things, that:

16 A. Any beneficial uses hereafter made by the United
17 States, or those acting by or under its authority, within a
18 State, of the waters allocated by this compact, shall be within
19 the allocations hereinabove made for use in that State and
20 shall be taken into account in determining the extent of use
21 within that State.

22 B. The United States, or those acting by or under its
23 authority, in the exercise of rights or powers arising from
24 whatever jurisdiction the United States has in, over and to
25 the waters of the Belle Fourche River and all its tributaries,

1 shall recognize, to the extent consistent with the best utiliza-
2 tion of the waters for multiple purposes, that beneficial use of
3 the waters within the Basin is of paramount importance to
4 development of the Basin, and no exercise of such power or
5 right thereby that would interfere with the full beneficial use
6 of the waters shall be made except upon a determination, giv-
7 ing due consideration to the objectives of this compact and
8 after consultation with all interested Federal agencies and the
9 State officials charged with the administration of this compact,
10 that such exercise is in the interest of the best utilization of
11 such waters for multiple purpose.

12 C. The United States, or those acting by or under its
13 authority, will recognize any established use, for domestic and
14 irrigation purposes, of the apportioned waters which may be
15 impaired by the exercise of Federal jurisdiction in, over, and
16 to such waters; provided, that such use is being exercised
17 beneficially, is valid under the laws of the appropriate State
18 and in conformity with this compact at the time of the im-
19 pairment thereof, and was validly initiated under State law
20 prior to the initiation or authorization of the Federal program
21 or project which causes such impairment.

22

ARTICLE XV

23

Should a court of competent jurisdiction hold any part of

1 this compact to be contrary to the constitution of any State
2 or of the United States, all other severable provisions shall
3 continue in full force and effect.

4 In Witness Whereof the Commissioners have signed this
5 compact in triplicate original, one of which shall be filed in
6 the archives of the Department of State of the United States
7 of America and shall be deemed the authoritative original,
8 and of which a duly certified copy shall be forwarded to the
9 Governor of each of the States.

10 Done at the City of Cheyenne in the State of Wyoming,
11 this 18th day of February, in the year of Our Lord, One
12 Thousand Nine Hundred and Forty-three.

13 Commissioners for South Dakota

14 (Sgd) M. Q. Sharpe

15 M. Q. SHARPE

16 (Sgd) G. W. Morsman

17 G. W. MORSMAN

18 (Sgd) S. G. Mortimer

19 S. G. MORTIMER

20 (Sgd) W. D. Buchholz

21 W. D. BUCHHOLZ

1 Commissioners for Wyoming

2 (Sgd) L. C. Bishop

3 L. C. BISHOP

4 (Sgd) Samuel McKean

5 SAMUEL McKEAN

6 (Sgd) L. H. Robinson

7 L. H. ROBINSON

8 (Sgd) Mrs. E. E. McKean

9 MRS. E. E. McKEAN

10 I have participated in the negotiation of this compact
11 and intend to report favorably thereon to the Congress of
12 the United States.

13 (Sgd) Howard R. Stinson

14 HOWARD R. STINSON,

15 Representative of the United States of America.

16 SEC. 2. (a) In order that the conditions stated in ar-
17 ticle XIV of the compact hereby consented to shall be met
18 and that the compact shall be and continue to be operative,
19 the following provisions are enacted:

20 (1) Any beneficial uses hereafter made by the United
21 States, or those acting by or under its authority, within a
22 State, of the waters allocated by such compact, shall be
23 within the allocations made by such compact for use in that
24 State and shall be taken into account in determining the
25 extent of use within that State;

1 (2) The United States, or those acting by or under its
2 authority, in the exercise of rights or powers arising from
3 whatever jurisdiction the United States has in, over, and to
4 the waters of the Belle Fourche River and all its tributaries
5 shall recognize, to the extent consistent with the best utiliza-
6 tion of the waters for multiple purposes, that beneficial use
7 of the waters within the Basin is of paramount importance
8 to the development of the Basin; and no exercise of such
9 power or right thereby that would interfere with the full
10 beneficial use of the waters within the Basin shall be made
11 except upon a determination, giving due consideration to the
12 objectives of such compact and after consultation with all
13 interested Federal agencies and the State officials charged
14 with the administration of such compact, that such exercise
15 is in the interest of the best utilization of such waters for
16 multiple purposes;

17 (3) The United States, or those acting by or under its
18 authority, will recognize any established use, for domestic
19 and irrigation purposes, of the apportioned water which may
20 be impaired by the exercise of Federal jurisdiction in, over,
21 and to such water: *Provided*, That such use is being exer-
22 cised beneficially, is valid under the laws of the appropriate
23 State and in conformity with such compact at the time of the
24 impairment thereof, and was validly initiated under State

1 law prior to the initiation or authorization of the Federal
 2 program or project which causes such impairment.

3 (b) As used in this section, the following terms: “ben-
 4 eficial use”, “Basin”, and “apportioned water”, shall have
 5 the same meanings as those ascribed to them in the compact
 6 consented to by this Act.

78TH CONGRESS
 1ST SESSION

H. R. 2580

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

By Mr. BARRETT

MAY 3, 1943

Referred to the Committee on Irrigation and Reclamation

BELLE FOURCHE RIVER COMPACT

HEARINGS

BEFORE THE

COMMITTEE ON IRRIGATION AND RECLAMATION

HOUSE OF REPRESENTATIVES

SEVENTY-EIGHTH CONGRESS

FIRST SESSION

ON -

H. R. 2580

A BILL GRANTING THE CONSENT OF CONGRESS TO A
COMPACT TO BE ENTERED INTO BY THE STATES
OF SOUTH DAKOTA AND WYOMING WITH RE-
SPECT TO THE USE OF THE WATERS OF
THE BELLE FOURCHE RIVER BASIN

OCTOBER 8-15, 1943

Printed for the use of the Committee on Irrigation and Reclamation



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1943

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JOHN MCBRIDE, *Committee Clerk*

BELLE FOURCHE RIVER COMPACT

FRIDAY, OCTOBER 8, 1943.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON IRRIGATION AND RECLAMATION,
Washington, D. C.

The committee met at 10 a. m., Hon. Compton I. White (chairman) presiding.

The CHAIRMAN. The committee will come to order. This meeting is for the purpose of considering H. R. 2580, a bill introduced by Mr. Barrett to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

(H. R. 2580 is as follows:)

[H. R. 2580, 78th Cong., 1st Sess.]

A BILL To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to a compact authorized by the Act entitled "An Act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested," approved February 26, 1927 (44 Stat. 1247), signed by commissioners for the States of South Dakota and Wyoming, on the 18th day of February 1943 and thereafter ratified by the act of the Legislature of South Dakota entitled "An act ratifying and approving a compact between the States of Wyoming and South Dakota for use of the waters of the Belle Fourche River, and declaring an emergency," approved March 4, 1943 and the act of the Legislature of Wyoming entitled "An act to provide for the ratification and approval of the Belle Fourche River Compact," approved March 3, 1943, which compact reads as follows:

BELLE FOURCHE RIVER COMPACT

The States of South Dakota and Wyoming, parties signatory to this compact (hereinafter referred to as South Dakota and Wyoming, respectively, or individually as a State, or collectively as the States), have resolved to conclude a compact as authorized under the Act of Congress of February 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotiations participated in by the following named State Commissioners.

For South Dakota:

M. Q. SHARPE.
G. W. MORSMAN.
S. G. MORTIMER.
W. D. BUCHHOLZ.

For Wyoming:

L. C. Bishop
Samuel McKean
L. H. Robinson
Mrs. E. E. McKean

and by Howard R. Stinson, appointed as the Representative of the United States of America, have agreed upon the following articles, to-wit:

ARTICLE I

A. The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the Basin) for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is required for the full development of the Basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

B. The physical and other conditions peculiar to the Basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

C. Either State and all others using, claiming or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State, shall be subject to the terms of this compact.

ARTICLE II

As used in this compact:

A. The term "Belle Fourche River" shall mean and include the Belle Fourche River and all its tributaries originating in Wyoming.

B. The term "Basin" shall mean that area in South Dakota and Wyoming which is naturally drained by the Belle Fourche River, and all its tributaries.

C. The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

D. Where the name of the State or the term "State" or "States" is used, these shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State.

ARTICLE III

It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

ARTICLE IV

Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water gaging stations as it finds necessary to administer this compact.

ARTICLE V

A. Wyoming and South Dakota agree that the unappropriated waters of the Belle Fourche River as of the date of this compact shall be allocated to each State as follows:

90% to South Dakota
10% to Wyoming;

Provided that allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity. For storage of its allocated water, Wyoming shall have the privilege of purchasing at cost not to exceed 10% of the total storage capacity of any reservoir or reservoirs constructed in Wyoming for irrigation of lands in South Dakota, or may construct reservoirs itself for the purpose of utilizing such water. Either State may temporarily divert, or store for beneficial use, any unused part of the above percentages allotted to the other, but no continuing right shall be established thereby.

B. Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under A of this Article, are agreed to be an equitable apportionment between the States of the waters of the Basin.

C. The waters allocated under A of this Article and the rights recognized under B of this Article are hereinafter referred to collectively as the apportioned water. For the purposes of the administration of this compact and determining the apportioned water at any given date within a given calendar year, there shall be taken the sum of:

(1) The quantity of water in acre-feet that passed the Wyoming-South Dakota State line during the period from January 1 of that year to that given date.

(2) The quantity of water in acre-feet in storage on that date in all reservoirs built in Wyoming on the Belle Fourche River subsequent to the date of this compact.

ARTICLE VI

Any person, entity, or State shall have the right to acquire necessary property rights in another State by purchase or through the exercise of the power of eminent domain for the construction, operation and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by Article V and Article VII A; provided, however, that the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes assessed against the lands and improvements thereon during the 10 years preceding the use of such lands in reimbursement for the loss of taxes to said political subdivision of the State.

ARTICLE VII

A. Either State shall have the right, by compliance with the laws of the other State, to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such State for the purpose of conserving and regulating the apportioned water of the other State; provided, that such right is subject to the rights of the other State to control, regulate, and use water apportioned to it.

B. Each claim hereafter initiated for storage or diversion of water in one State for use in another State shall be filed in the Office of the State Engineer of the State in which the water is to be stored or diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the Office of the State Engineer of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed to the end that the records in both States may be complete and identical.

C. Appropriations may hereafter be adjudicated in the State in which the water is stored or diverted, and where a portion or all of the lands irrigated are in the other State, such adjudications shall be confirmed in the latter State by the proper authority. Each adjudication is to conform with the laws of the State

where the water is stored or diverted and shall be recorded in the county and State where the water is used.

ARTICLE VIII

In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

ARTICLE IX

No reservoir hereafter built solely to utilize the water allocated to Wyoming shall have a capacity in excess of 1,000 acre-feet.

ARTICLE X

The provisions of this compact shall remain in full force and effect until amended by action of the Legislature of the States and consented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified to become effective.

ARTICLE XI

This compact may be terminated at any time by unanimous consent of the States, and upon such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the States notwithstanding the termination of the other provisions of the compact.

ARTICLE XII

Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal court or the United States Supreme Court for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE XIII

Nothing in this compact shall be deemed:

A. To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Belle Fourche River nor its capacity to acquire rights in and to the use of said waters;

B. To subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

C. To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the compact.

ARTICLE XIV

This compact shall become operative when approved by the Legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that.

A. Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

B. The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over and to the waters of the Belle Fourche River and all its tributaries, shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the Basin is of paramount importance to development of the Basin, and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested Federal agencies and the

State officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes.

C. The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned waters which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

ARTICLE XV

Should a court of competent jurisdiction hold any part of this compact to be contrary to the constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

In Witness Whereof the Commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done at the City of Cheyenne in the State of Wyoming, this 18th day of February, in the year of Our Lord, One Thousand Nine Hundred and Forty-three.

Commissioners for South Dakota

(Sgd) M. Q. Sharpe
M. Q. SHARPE
(Sgd) G. W. Morsman
G. W. MORSMAN
(Sgd) S. G. Mortimer
S. G. MORTIMER
(Sgd) W. D. Buchholz
W. D. BUCHHOLZ

Commissioners for Wyoming

(Sgd) L. C. Bishop
L. C. BISHOP
(Sgd) Samuel McKean
SAMUEL MCKEAN
(Sgd) L. H. Robinson
L. H. ROBINSON
(Sgd) Mrs. E. E. McKean
MRS. E. E. MCKEAN

I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

(Sgd) Howard R. Stinson
HOWARD R. STINSON,
Representative of the United States of America.

SEC. 2. (a) In order that the conditions stated in article XIV of the compact hereby consented to shall be met and that the compact shall be and continue to be operative, the following provisions are enacted:

(1) Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by such compact, shall be within the allocations made by such compact for use in that State and shall be taken into account in determining the extent of use within that State;

(2) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Belle Fourche River and all its tributaries shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of such compact and after consultation with all interested Federal agencies and the State officials charged with the administration of such compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes;

(3) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned

water which may be impaired by the exercise of Federal jurisdiction in, over, and to such water: *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with such compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

(b) As used in this section, the following terms: "beneficial use", "Basin", and "apportioned water", shall have the same meanings as those ascribed to them in the compact consented to by this Act.

The CHAIRMAN. In order that the committee may have the compact before it I will ask the clerk of the committee to read the copy submitted by the Department.

(The clerk read the Belle Fourche River Compact, which is here printed in full as follows:)

BELLE FOURCHE RIVER COMPACT

The States of South Dakota and Wyoming, parties signatory to this compact (hereinafter referred to as South Dakota and Wyoming, respectively, or individually as a State, or collectively as the States), have resolved to conclude a compact as authorized under the act of Congress of February 26, 1927, (ch. 216, 44 Stat. 1247), and, after negotiations participated in by the following named State commissioners.

For South Dakota: M. Q. Sharpe, G. W. Morsman, S. G. Mortimer, W. D. Buchholz.

For Wyoming: L. C. Bishop, Samuel McKean, L. H. Robinson, Mrs. E. E. McKean.

and by Howard R. Stinson, appointed as the representative of the United States of America, have agreed upon the following articles, to wit:

ARTICLE I

(a) The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the basin) for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the basin is required for the full development of the basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

(b) The physical and other conditions peculiar to the basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

(c) Either State and all others using, claiming or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State, shall be subject to the terms of this compact.

ARTICLE II

As used in this compact:

(a) The term "Belle Fourche River" shall mean and include the Belle Fourche River and all its tributaries originating in Wyoming.

(b) The term "basin" shall mean that area in South Dakota and Wyoming which is naturally drained by the Belle Fourche River, and all its tributaries.

(c) The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

(d) Where the name of the State or the term "State" or "States" is used, these shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State.

ARTICLE III

It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such

officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

ARTICLE IV

Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water-gaging stations as it finds necessary to administer this compact.

ARTICLE V

(a) Wyoming and South Dakota agree that the unappropriated waters of the Belle Fourche River as of the date of this compact shall be allocated to each State as follows: 90 percent to South Dakota; 10 percent to Wyoming; provided that allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity. For storage of its allocated water, Wyoming shall have the privilege of purchasing at cost not to exceed 10 percent of the total storage capacity of any reservoir or reservoirs constructed in Wyoming for irrigation of lands in South Dakota, or may construct reservoirs itself for the purpose of utilizing such water. Either State may temporarily divert, or store for beneficial use, any unused part of the above percentages allotted to the other, but no continuing right shall be established thereby.

(b) Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under (a) of this article, are agreed to be an equitable apportionment between the States of the waters of the basin.

(c) The waters allocated under (a) of this article and the rights recognized under (b) of this article are hereinafter referred to collectively as the apportioned water. For the purposes of the administration of this compact and determining the apportioned water at any given date within a given calendar year, there shall be taken the sum of:

(1) The quantity of water in acre-feet that passed the Wyoming-South Dakota State line during the period from January 1 of that year to that given date.

(2) The quantity of water in acre-feet in storage on that date in all reservoirs built in Wyoming on the Belle Fourche River subsequent to the date of this compact.

ARTICLE VI

Any person, entity, or State shall have the right to acquire necessary property rights in another State by purchase or through the exercise of the power of eminent domain for the construction, operation, and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by article V and article VII (a): *Provided, however*, That the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes assessed against the lands and improvements thereon during the 10 years preceding the use of such lands in reimbursement for the loss of taxes to said political subdivision of the State.

ARTICLE VII

(a) Either State shall have the right, by compliance with the laws of the other State, to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such State for the purpose of conserving and regulating the apportioned water of the other State: *Provided*, That such right is subject to the rights of the other State to control, regulate, and use water apportioned to it.

(b) Each claim hereafter initiated for storage or diversion of water in one State for use in another State shall be filed in the office of the State engineer of the State in which the water is to be stored or diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the office of the State engineer of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed to the end that the records in both States may be complete and identical.

(c) Appropriations may hereafter be adjudicated in the State in which the water is stored or diverted, and where a portion or all of the lands irrigated are in the other State, such adjudications shall be confirmed in the latter State by the proper authority. Each adjudication is to conform with the laws of the State where the water is stored or diverted and shall be recorded in the county and State where the water is used.

ARTICLE VIII

In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

ARTICLE IX

No reservoir hereafter built solely to utilize the water allocated to Wyoming shall have a capacity in excess of 1,000 acre-feet.

ARTICLE X

The provisions of this compact shall remain in full force and effect until amended by action of the legislature of the States and consented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified to become effective.

ARTICLE XI

This compact may be terminated at any time by unanimous consent of the States, and upon such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the States notwithstanding the termination of the other provisions of the compact.

ARTICLE XII

Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal court or the United States Supreme Court for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE XIII

Nothing in this compact shall be deemed—

(a) To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Belle Fourche River nor its capacity to acquire rights in and to the use of said waters;

(b) To subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

(c) To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the compact.

ARTICLE XIV

This compact shall become operative when approved by the legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that—

(a) Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

(b) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over and to the waters of the Belle Fourche River and all its tributaries, shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the basin is of paramount importance to development of the basin, and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested Federal agencies and the State officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purpose.

(c) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned waters which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters. *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

ARTICLE XV

Should a court of competent jurisdiction hold any part of this compact to be contrary to the Constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

In witness whereof the commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done at the city of Cheyenne in the State of Wyoming, this 18th day of February, in the year of our Lord, 1943.

L. C. BISHOP,
SAMUEL McKEAN,
L. H. ROBINSON,
Mrs. E. E. McKEAN,
Commissioners for Wyoming.

M. Q. SHARFE,
G. W. MORSMAN,
S. G. MORTIMER,
W. D. BUCHHOLZ,
Commissioners for South Dakota.

I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

HOWARD R. STINSON,
Representative of the United States of America.

The CHAIRMAN. The Secretary of the Interior has sent me, under date of October 8, 1943, a report by his Department on this bill.

(The letter referred to and submitted by the chairman is as follows:)

THE SECRETARY OF THE INTERIOR,
Washington, October 8, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

MY DEAR MR. WHITE: Pursuant to an informal arrangement made with your committee, I am submitting this report on H. R. 2580, a bill relating to the proposed Belle Fourche River compact.

I recommend the enactment of this bill.

This Department has an interest in the Belle Fourche River Basin and particularly in the problems in connection with the development, through irrigation, of the arable lands therein. Through the Bureau of Reclamation of this Department, the United States has made an investment in irrigation works in the basin, and investigations are being made by that Bureau with a view to effecting a greater utilization of the waters of the river within the basin. In fact, the desirability of a water compact between South Dakota and Wyoming became evident, in part, as a result of our studies. The extent of this Department's interest in the basin was recognized by Congress in the act of February 26, 1927 (44 Stat. 1247) authorizing the negotiation of a compact between these States and providing that the representative of the United States should be from the Department of the Interior.

Taking the Belle Fourche compact as a whole, I believe that it offers a sound solution of the water problems confronting South Dakota and Wyoming in the case of the Belle Fourche River. The proposed compact and related consenting legislation follow closely the recently approved Republican River compact, insofar as they deal with the possibility of conflicts between certain uses of water and rights established under State law, on the one hand, and the exercise of Federal jurisdiction in and to the waters of the river, on the other. I believe that the legislative device for the handling of these possible conflicts is also appropriate in this case, considering the characteristics and potentialities of the river. I wish to note, however, as did the President in approving the legislation consenting to the Republican River compact, that for streams of different characteristics and potentialities it may be found desirable to rephrase or to modify certain features of that legislative device or to treat the matter in a different manner. I am not sure, for example, that the formula should be applied to a stream in which multiple-purpose Federal developments represent a major interest in the use of the water, and believe that this question should be left open.

The effect which the consultation procedure, provided in article XIV (b) of the proposed compact and in section 2 (a) (2) of the bill, in connection with the exercise of Federal jurisdiction, is intended to have upon the exercise of Federal regulatory jurisdiction has given rise to some question. The compact and the bill would not alter the power of the Federal Government to act, although compensation must in some cases be paid for injuries to established water uses.

Had the provisions for consultation been stated somewhat differently or with greater particularity, however, the possibility of an interpretation which would hamper Federal agencies charged with the regulatory responsibility could have been avoided. My interpretation of these provisions, in any event, is that the consultation procedure would be requisite only in cases where the exercise of Federal regulatory jurisdiction as to the apportioned waters of the river would require the use of any part thereof in a manner that would preclude the use and development of that part for beneficial purposes within the basin. On the other hand, I understand that such regulatory jurisdiction could be exercised without regard to the consultation procedure in any case where the exercise would not have such a result. Since the prospect of hydroelectric power developments on the Belle Fourche River appears to be remote and only incidental to irrigation developments, the question appears not to be of great consequence in this case.

The provisions of article V of the proposed compact, whereby the compacting States agree to recognize existing rights to the use of water as of the date of the compact, are of interest to this Department in connection with the Belle Fourche project in South Dakota. This provision, I understand, is intended to remove an ambiguity as to the status and priority of project water rights arising out of the absence of water filings in Wyoming for the project.

The proposed compact also provides that storage and diversion works may be built in either State for the use of waters apportioned thereby on lands in the other State. This provision is of importance to this Department in connection with the possibilities of the development of additional storage for lands in South Dakota. The studies made by the Bureau of Reclamation indicate that the best site for such storage is in Wyoming. While it has not been determined as yet whether such an undertaking would be feasible, this provision would remove one of the obstacles heretofore existing to it. In this connection it will be noted, by reason of the provisions of article XIII, that if such storage were built and owned by the United States, the provisions of the proposed compact for payments in lieu of taxes would not be applicable to the United States, its agencies, or its instrumentalities.

The Director of the Bureau of the Budget advises that this report would not be in conflict with the program of the President.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

The CHAIRMAN. In this connection I submit for the record a letter dated May 27, 1943, from Howard R. Stinson, a representative of the United States Belle Fourche River Compact negotiations, addressed to the Speaker of the House, and I ask that the clerk read this letter.

(The clerk read to the committee the letter referred to, which is as follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, May 27, 1943.

HON. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: There is enclosed a copy of the proposed Belle Fourche River Compact between the States of South Dakota and Wyoming, together with a signed copy of my report on the compact and the proceedings relating to its negotiation. The compact was negotiated pursuant to the authority granted by the act of February 26, 1926 (44 Stat. 1247).

I participated in the negotiation as the representative of the United States by virtue of my appointment by the President. The enclosed report is submitted in compliance with the provisions of the act above-cited.

There is now pending before the House, H. R. 2580, a bill that would grant the consent of Congress to the proposed compact. You may wish to refer the enclosed report to the Committee on Irrigation and Reclamation, the committee to which H. R. 2580 was referred.

Sincerely yours,

HOWARD R. STINSON,
Representative of the United States
Belle Fourche River Compact Negotiations.

Enclosures.

The CHAIRMAN. There has been submitted to the committee, and which will be made a part of the record, a report on the proposed Belle Fourche River Compact by Mr. Howard R. Stinson, and as it is somewhat lengthy and will be made a part of the record, the chairman felt that it might be well to read the conclusion and then let Mr. Stinson make an oral explanation to the committee. If that is agreeable, I will read the conclusion of the report—it is only a paragraph—rather than to read the whole report. What is the pleasure of the committee?

Mr. BARRETT. I think that is agreeable.

The CHAIRMAN. The conclusion of this report, which carries the date of May 17, 1943, is as follows [reading]:

CONCLUSION

Earlier in this report in paraphrasing article I of the proposed compact, I outlined its major purposes. It is my judgment that the proposed compact is in keeping with all of these purposes and that the principles upon which it proceeds affords the reasonable assurance, both to the States and the Federal Government, that the water resources of the Belle Fourche River Basin will be put to their best and most economical use.

The report in full will be made a part of the record.

(The report referred to is as follows:)

PROPOSED BELLE FOURCHE RIVER COMPACT

(Report and Recommendation by Representative of the United States)

THE PROPOSED COMPACT; AUTHORIZATION THEREFOR

The Belle Fourche River compact, a proposed compact providing an equitable division and apportionment of the water supply of the Belle Fourche River between the States of South Dakota and Wyoming, is now before Congress for action. This report on the proposed compact and its negotiations is submitted, as required by the act of February 26, 1927 (44 Stat. 1247), by the representative of the United States, Howard R. Stinson, who participated in the negotiations, and is for the information of Congress in connection with pending bills that would grant the consent of Congress to the proposed compact.

Authorization to the States of South Dakota and Wyoming for the negotiation of a compact was granted by the act above-cited. Pursuant to the same act, I, Howard R. Stinson, of the Department of the Interior, was appointed on February 12, 1943, as the representative of the United States by the President. In the compact negotiations, South Dakota was represented by M. Q. Sharpe, G. W. Morsman, S. G. Mortimer and W. D. Buchholz; and Wyoming by L. C. Bishop, Samuel McKean, L. H. Robinson, and Mrs. E. E. McKean.

RECOMMENDATION

I recommend that the Congress of the United States act favorably upon the proposed compact, a copy of which is attached, by the enactment of appropriate consenting legislation that will meet the conditions stated in article XIV of the proposed compact. The effectiveness of the proposed compact, by reason of the provisions of article I, section 10, clause 3 of the Constitution, depends on the consent of Congress being given; and by reason of the conditions stated in article XIV its effectiveness between the States depends on the consent of Congress being given accompanied by legislative provisions of the kind stated in that article.

HISTORY OF THE COMPACT NEGOTIATIONS

In the fall of 1942 in connection with the study of certain water developments in the Belle Fourche River Basin in Wyoming for the benefit in part of lands in South Dakota, it became evident that none of the plans under consideration could be carried to fruition until differences on interstate water questions were resolved by an interstate compact. Congress had, by the act of February 26, 1927, above cited, consented to the negotiation of a compact as to the Belle Fourche River on the condition that a representative of the United States from the Interior Department be appointed to participate in the negotiations. Accordingly, the States initiated action to have a Federal representative designated and early in November 1942 the Secretary of the Interior made a recommendation. Delay in action on this recommendation was a matter of considerable concern to the two States, inasmuch as it was hoped that the compact negotiations could be completed in time to present an agreement to the respective State legislatures that were scheduled to convene in January 1943. Therefore, shortly after the legislatures of each of the States convened, without waiting longer for the designation of a representative of the United States, the States proceeded with negotiations. A conference was held at Sundance, Wyo., on January 20, which resulted in a draft of compact satisfactory to the representatives of the two States. The proposed compact was presented to the legislatures of each of the States and at the same time efforts were increased to procure the appointment of a Federal representative.

Early in February 1943, the Secretary of the Interior withdrew his original recommendation and by his letter of February 11 recommended my appointment. This was acted on by the President on February 12. Notwithstanding the seeming improbability that a conference among the representatives of the States and of the several interested Federal agencies could be arranged and held prior to the scheduled adjournment of the Wyoming Legislature on February 20, steps to this end were taken on February 13 and a conference was called to meet at Cheyenne, Wyo., on February 17. Information concerning the conference, in addition to being sent to the representatives of the States, was sent to the Federal Power Commission and the Departments of Agriculture, Interior, and War. The conference convened in Cheyenne the afternoon of February 17. In addition to the representatives of the States, there were representatives from the Departments of Agriculture, Interior, and War, but no representative was present from the Federal

Power Commission, nor was there any presentation of views in behalf of the Power Commission.

The negotiations at the Cheyenne conference proceeded on the basis of draft of compact theretofore signed by the representatives of the States, insofar as the actual apportionment of the waters between the States was concerned. There was considerable revision of the compact, however, to meet points that developed in the course of the conference, particularly with reference to the correlation of Federal and State interests. The compact negotiations were completed and the draft of compact signed by the representatives of the two States, and by me to indicate participation of a representative of the United States, on February 18. The Wyoming legislature ratified the compact on the last day of its scheduled session, February 20, and the bill was approved by the Governor of Wyoming on March 3. Ratification by the legislature of South Dakota was accomplished by a bill approved by its Governor on March 4.

LOCALITY INVOLVED—COMPACT PURPOSES

The drainage basin of the Belle Fourche River and its tributaries involved in the proposed compact comprises an area of some 7,350 square miles in north-eastern Wyoming and western part of South Dakota. The river is an interstate stream that is tributary to a river system having navigable reaches. It is a stream of quite erratic run-off, typical of streams in the Great Plains area of the United States. And, as in the case of similar streams in that part of the United States, within its basin are considerable bodies of arable lands requiring, for greatest productivity and economic use, that virtually all the waters of the basin be made available for irrigation. Annual precipitation in the basin varies from 15 to 21 inches, with precipitation during the growing season ranging from 11 to 15 inches. There are some possibilities for the development of hydroelectric power on the river, but, based on studies made by the Bureau of Reclamation, it seems evident that such development should be considered, if at all, only as an incident to irrigation development.

The principal purposes of the compact are to apportion the waters of the Belle Fourche River Basin for use for irrigation between the States of South Dakota and Wyoming and to provide the basis for the development of additional water storage facilities in Wyoming that will permit the fullest use of the waters so developed both in Wyoming and South Dakota. As stated in the proposed compact, the purposes are to provide for the most efficient use of the waters of the Belle Fourche River Basin for multiple purposes, to provide for an equitable division of such water, to remove all causes, present and future, which might lead to controversies, to promote interstate comity, to recognize that the most efficient utilization of the water within the basin is required for the full development of the basin, and to promote joint action by the States and the United States in the efficient use of the water and the control of floods.

The several provisions of the proposed compact, including those of direct concern to the United States, which appear in articles XIII and XIV, are, in my judgment, in keeping with the major purposes of the proposed compact.

In keeping with these purposes, there are provisions for the allocation of the unappropriated waters of the Belle Fourche River as of the date of the compact, 90 percent to South Dakota and 10 percent to Wyoming, subject to certain minor uses to be permitted to be made in Wyoming without regard to the allocations. There are also provisions for the recognition by the compacting States of existing uses being made of the waters of the Belle Fourche River. The latter is a matter of considerable importance to the Federal Government by reason of uses being made in connection with existing Federal reclamation developments within the basin.

TREATMENT OF FEDERAL AND STATE INTERESTS

One of the reasons for the delay in the appointment of the representative of the United States was the question as to whether the Federal Government, through its representative, would insist on the States confining their compact to an allocation of waters between them, or whether the Federal Government would endeavor to work out with the States a legislative device for adjusting possible conflicts between the rights for the use of water for irrigation and related purposes, on the one hand, and the exercise of Federal jurisdiction in and to the water of that basin, on the other hand. In his letter of February 11 to the President, by which he recommended my appointment, the Secretary of the Interior indicated his attitude on this problem rather clearly. In that letter he said:

"This Department is concerned about the general problem as to how far the Federal Government can and should go in working out in connection with compacts affecting interstate streams a legislative device for adjusting possible conflicts between rights to the use of water for irrigation and related purposes, on the one hand, and the exercise of Federal jurisdiction in and to the waters of interstate streams, on the other hand. In the earlier attempt of the States of Colorado, Kansas, and Nebraska to negotiate a compact as to the Republican River, you felt obliged to veto the consenting legislation because the States there had sought to procure a withdrawal of the Federal jurisdiction through a declaration in the compact that the stream was not navigable. Your action was sound, for the Federal Government ought not to countenance efforts to hamstring its jurisdiction in the waters of interstate streams. Chairman Olds believes, however, that these and other States interested in making such compacts are trying in subtle ways to accomplish results equally inimical to Federal interests in interstate streams.

"I do not share his fears, and I do recognize that the States, particularly the Western States, have a real concern as to the consequences of the conflicts here discussed. If there is a way whereby the conflicts can be resolved and the fullest development of the water resources of a river basin fostered, without impairing or withdrawing Federal jurisdiction, I think it is the job of the Federal representative in compact negotiations to find that way."

The Secretary also indicated in that letter the outlines of a formula for composing these differences that he considered reasonable in some circumstances. He took care, however, to indicate that he could not then express a view as to whether it would be a proper formula in the case of a compact concerning the Belle Fourche River.

The matter of working out a formula on this point presented a major problem in the Cheyenne conference. The provisions of the draft of compact that had been negotiated at the Sundance meeting were, in my judgment, objectionable from the point of view of the Federal Government, although the objections were more as to the mechanics for putting them into effect rather than as to the substance of the provisions the States had agreed on. At the Cheyenne conference, the compact commissioners had available the provisions that had been incorporated in the proposed Republican River Compact. With modifications to adapt those provisions to the particular circumstances of the Belle Fourche River, these were adopted by the compact commissioners. Those provisions, appearing in article XIV of the proposed compact, provide that the compact would become effective only if Congress in granting its consent to the compact enacts provisions requiring the United States and its agencies: (a) When they make beneficial use of the waters allocated by the compact to do so within the compact allocations; (b) when they undertake programs or projects that would interfere with the full beneficial use within the basin of the waters of the river as a condition precedent to consult with various interested agencies, Federal and State; and (c) if after such consultation they determine that a program or project is to be undertaken notwithstanding encroachment on certain established uses of the water for irrigation and domestic purposes, to recognize those established uses as property.

The objective of these provisions is to assure the States and those who have established or who may hereafter establish water rights for irrigation and domestic use under the laws of the States and in conformity with the compact, that the Federal Government, in undertaking programs and projects on the basis of whatever Federal jurisdiction there may be as to the waters of the river, would undertake them only after full consideration as to what is the best and most economical use of the waters of the basin for all purposes and would recognize established uses for irrigation and domestic purposes as property rights. These assurances on behalf of the States and of those who invest money in the development of lands within the basin by irrigation, whether they be private, State, or Federal, are, in my judgment, wholly reasonable. Without such assurance by Federal legislation, Federal programs or projects, based on whatever Federal jurisdiction there is or may be as to waters of the river, could be undertaken in a way inimical to the fullest economic development of the arable lands in the basin, without regard to established uses for irrigation and domestic purposes, and conceivably without making provision for the compensation of the irrigation and related rights thereby encroached on.

If the Congress enacts consenting legislation carrying the provisions that are necessary to make the proposed compact effective, those provisions would leave unimpaired the underlying Federal jurisdiction to the waters of the river. In this

connection I call your attention specifically to the provisions of article XIV (b) with respect to the consultation procedure required in certain circumstances. It is my understanding that this consultation procedure would be applicable in cases where the exercise of Federal jurisdiction as to the waters of the river would interfere with or prevent "full beneficial use" of these waters within the basin. On the other hand, according to my understanding, whatever regulatory jurisdiction the Federal Government has could be exercised without regard to the consultation procedure in any case where the exercise of such jurisdiction would not result in the preclusion of the full beneficial use of the waters within the basin. In this connection you will note that the proposed compact was drafted so that, by its terms, there would be no interference or impairment of any rights or powers of the United States with respect to the waters of the Belle Fourche River (article XIII).

The problem of possible conflicts between Federal jurisdiction as to waters of rivers tributary to navigable systems and the rights to use those waters for irrigation and related purposes under rights established by State law is one that will be found present in many streams in the western part of the United States. The characteristics of those streams, however, vary from basin to basin. Whether there is a need for a procedure for compromising the differences and for mitigating the economic consequences of these conflicts and if so what the formula should be, is a matter that must be determined considering the special circumstances of the particular basin. In the present case it was and is my judgment that the formula of the Republican River compact was well suited with but minimal changes. I feel that that formula cannot be objected to on constitutional grounds, for it in no manner would impair Federal jurisdiction nor would it bind the Federal Government contractually as to the manner in which Federal jurisdiction as to the waters are to be exercised. Nor can it be said, in my judgment, that the States are encroaching on the field of Federal legislative authority when they make their compact effective only on the enactment by the Congress of certain provisions to govern Federal agencies. Rather, the States are taking the position that they wish to allocate the waters of the river between them for certain purposes, but feel that their efforts to foster the fullest development of the water resources within the basin can be successful only if the Federal Government will, to the extent that it can do so, lay down rules that will govern its activities in the field covered by the compact.

Considering the extremely limited time in which to study the proposed compact and to work out provisions for the protection of Federal interests, it may be that minor imperfections will be found in the document. It is true, of course, that the novelty of the provisions of article XIV have yet to stand the test of practice and litigation. The fact, however, that the representatives of the States and the Federal Government were able in so short a time to work out a basis for a compact, speaks well for the spirit of cooperation that prevailed at the Cheyenne conference. All points of view that were expressed during the negotiations were fully and carefully considered.

CONCLUSION

Earlier in this report in paraphrasing article I of the proposed compact, I outlined its major purposes. It is my judgment that the proposed compact is in keeping with all of these purposes and that the principles upon which it proceeds affords the reasonable assurance, both to the States and the Federal Government, that the water resources of the Belle Fourche River Basin will be put to their best and most economical use.

HOWARD R. STINSON,
*Representative of the United States,
Belle Fourche River Compact Negotiations.*

MAY 17, 1943.

The CHAIRMAN. Before we proceed to a discussion of the report, let me say that the clerk of the committee, following the usual procedure, has conferred with the several departments, Agriculture, the War Department, Department of the Interior, and the Federal Power Commission. At the last moment the Federal Power Commission, of which Mr. Leland Olds is chairman, called and requested a week in which to prepare and submit a letter setting out their policy. In view of those circumstances it may be necessary to defer final action on the bill until the Power Commission has been given an opportunity to

present its views on the matter. However, we will proceed with the hearing and I will call on the author of the bill for a brief explanation.

**STATEMENT OF HON. FRANK A. BARRETT, A REPRESENTATIVE
IN THE CONGRESS OF THE UNITED STATES FROM THE STATE
OF WYOMING**

Mr. BARRETT. Mr. Chairman, this is a bill to ratify a compact between the State of Wyoming and the State of South Dakota regarding the Belle Fourche River. The river is used now and is proposed to be used for irrigating lands over in South Dakota. As the compact states, 90 percent of the water is to be used for irrigation purposes in South Dakota and 10 percent of the water is allocated to Wyoming. The two States have agreed upon the compact, and the United States, represented by Mr. Stinson, has also agreed to the compact.

The State of Wyoming is very desirous of having this compact ratified and of entering into an agreement providing for a method whereby they can protect their own waters. While in this case most of the water in the Belle Fourche River will be used to improve lands in South Dakota, nevertheless Wyoming is very much interested in the passage of this legislation.

The compact is the ground work for a proposed post-war construction of a 260,000-acre-foot dam near Carlile, to provide supplemental water for the Belle Fourche irrigation project.

As it may be noticed in reading the compact, there are provisions in it which protect the storage and water rights existing at the present time, and also there is provision for reimbursement for taxes when the dam is constructed. The dam is to be constructed in Wyoming, and this compact authorizes it.

I think that every agency of the Government was notified; in fact, I know they were; and they had an opportunity to attend the meeting in Cheyenne in the latter part of February.

I might say that prior to the meeting in Cheyenne the States of South Dakota and Wyoming got together on this compact and arrived at an agreement, without waiting for the appointment of an agent of the United States. Thereafter the Secretary of the Interior agreed to recommend the appointment of an agent to represent the United States, and a new meeting was held in Cheyenne on February 17 last. At that meeting all of the various agencies of the United States interested in the matter, except the Power Commission, were present or represented and agreed to the terms of the compact.

Mr. Chairman, you called attention to the fact that the Power Commission desires to send in a letter with reference to this legislation. I do not assume that they have any objections to the legislation; they merely wish to state their policy on matters of this character.

There is no reason that I can see, Mr. Chairman, why, inasmuch as the States have ratified the compact and the various agencies of the Government have participated in the meetings and protected any interests that the Government might possibly have in this matter, this committee should not recommend this legislation for passage and put it on the Consent Calendar.

I might add that my colleague, Mr. Frank Case, is very much interested in this. He is one of the Representatives of South Dakota.

The CHAIRMAN. Following the usual procedure permitting the author of the bill to make a statement, we have present a representative of the Government who participated in the negotiations and who will be given an opportunity to be heard. Of course the Chair will accord any member of the committee the opportunity to ask the author of the bill any questions that are pertinent.

If there are no questions, I will pass on to another witness. I assume, Mr. Case, you would prefer to make your statement later. If you are in a hurry we will hear you now.

Mr. CASE. No. I will have something to say later, Mr. Chairman.

The CHAIRMAN. Mr. Stinson, you participated in these negotiations as a representative of the Federal Government. You might tell us briefly the position of the Government in this matter.

**STATEMENT OF HOWARD R. STINSON, A REPRESENTATIVE OF
THE UNITED STATES IN THE BELLE FOURCHE RIVER COMPACT
NEGOTIATIONS, INTERIOR DEPARTMENT, WASHINGTON, D. C.**

Mr. STINSON. I think my position, Mr. Chairman, is well stated in the report that is on file; that is, the position as I have seen it. I will not go through that report, though I believe there are probably three or four points in the report to which I will call especial attention and make some comment upon.

So that the members of the committee will have a little better picture of the area involved, I brought along a map showing the Belle Fourche River Basin. I am sorry that it is a small-scale map, but if you will pass it around you will get a good picture of it.

The area involved embraces some 7,350 square miles lying in the northeastern part of Wyoming and extending over into the west central part of South Dakota.

The CHAIRMAN. You might use this map on the wall; it is a larger-scale map. You might explain where the Belle Fourche River has its outlet. Does it run clear across South Dakota?

Mr. STINSON. No; it does not.

The CHAIRMAN. The way you have outlined the basin on the map it would be a little over half in the State of Wyoming and a little less than half in the State of South Dakota. Is that correct?

Mr. STINSON. That is correct; although, so far as the drainage area is concerned, I think probably the greater part lies in Wyoming, because beyond this point [indicating on map] in the river the basin is narrow. It runs through a fairly marked canyon.

The CHAIRMAN. Does the map indicate that there is a considerable reservoir on that river at the present time?

Mr. STINSON. There is a reservoir located about in that area. The green does not indicate the reservoir area, but the project area, the Belle Fourche project in South Dakota, one of the very early reclamation projects.

The CHAIRMAN. It is now in operation?

Mr. STINSON. Yes.

Mr. PHILLIPS. How many acres are involved in that project?

Mr. STINSON. I will make a guess on the area in the project, and I would have to check it up later. My recollection is that it is about 40,000 acres.

Do you know the figure on that, Congressman Case?

Mr. CASE. The project was originally set up for 76,000 acres, but there has never been water for irrigation purposes over about 36,000 or 37,000 acres.

The CHAIRMAN. There is now 37,000 acres under irrigation?

Mr. CASE. Approximately; yes.

The CHAIRMAN. Is that from stored water?

Mr. CASE. Yes; from what is known as the Orman Dam which has a capacity of about 2,000 acre-feet.

The CHAIRMAN. Is that in South Dakota or in Wyoming?

Mr. CASE. In South Dakota. I might say in that connection, because I think it bears upon the consideration of this bill, as Mr. Stinson has said, this was one of the very first irrigation projects, and no filing for the water was ever made in the State of Wyoming, and it was the discovery of that fact which led to this bill.

Mr. STINSON. Yes. I want to emphasize that and make a little comment further on it. It is a very important point in this compact.

The CHAIRMAN. To get down to the basis of this program, are we not dealing now with an authorization to construct another reservoir for supplemental water?

Mr. STINSON. The compact itself does not authorize any construction. It does not authorize any expenditure of Federal money. The compact simply represents an agreement between the States of Wyoming and South Dakota as to the use of the waters arising in that basin.

Mr. PHILLIPS. Thirty-six thousand acres are already being served by existing works?

Mr. STINSON. Yes. There has been a possibility of the building of new works in Wyoming that would serve certain lands in South Dakota, but those works are not authorized by the compact.

The CHAIRMAN. Is not that interpretation of the word "authorized" a little strained? Is it not the purpose of this compact to authorize these improvements as affecting those two States? It does not carry any obligation on the part of the Government, but certainly the compact does authorize certain things.

Mr. STINSON. Let me answer that question this way, Mr. Chairman. This does not do away with the requirement of further Federal legislation to authorize specific works. To this extent, however, it removes certain obstacles to the building of those works. I will go into one point that Congressman Case made. Heretofore there have not been any filings on water rights in Wyoming for use in South Dakota. That has always been an obstacle to further development in South Dakota. This compact removes that obstacle. In addition, the Bureau engineers have found through fairly extensive investigations that the most feasible sites for additional storage with benefits both for South Dakota and Wyoming, but primarily for South Dakota, lie in Wyoming. Prior to the negotiation of this compact the local situation in Wyoming was such that a reservoir could not be built for use primarily in South Dakota. There was a Wyoming statute that forbade the approval of a water-right application for use on lands lying outside of the State.

That situation has been corrected by the compact and by legislation enacted by the State of Wyoming in approving the compact.

Do I correctly state that, Mr. Barrett?

Mr. BARRETT. Yes.

Mr. STINSON. So, to that extent the compact removes obstacles that heretofore existed for further development in that basin.

Mr. PHILLIPS. This might be a good place to ask a question. I notice on this map that about three-fourths of the drainage area lies in Wyoming, and they get 10 percent of the water. Is that a matter of the condition of the land?

Mr. STINSON. I do not know that I can answer too accurately on that.

Mr. CASE. I can answer that question. Under the law of the State of Wyoming it has not been possible for Wyoming to accept a filing for water which is already being used. The State engineer of Wyoming could never accept a filing for that, or at least he has not been able to since that law was passed. The effective bar to any development in Wyoming, or the use of the water in Wyoming, is this, that the Federal Government has several million dollars invested in the Belle Fourche irrigation project as of today, and obviously this committee and no other committee of Congress is likely to authorize or appropriate for a project in Wyoming that would impair the works which the Government has already established in South Dakota.

So that while the compact shows 10 and 90 percent, a great deal of South Dakota's 90 percent is already being used and the Federal Government has a stake in it. So that Wyoming has not had an opportunity to expect any development in Wyoming that would impair the investment in South Dakota. Moreover, the compact provides that stock water uses shall not be impaired, and it provides, further, that if any additional works are constructed in Wyoming a flow of 10 second-feet shall be released for stock water and, moreover, protects any diversion rights already filed in Wyoming.

So that that is part of the answer, and the further answer is this, that investigations have been made by the Bureau of Reclamation and the Army engineers as to the possible lands that could be irrigated from available reservoir sites in Wyoming. The territory is very rough. The water flows through the Bear Lodge Mountains, and there is very little irrigable area, so that there is not any opportunity to use a great deal of the water in Wyoming before it crosses the South Dakota line.

If this compact is approved by the Congress it would make possible the acceptance of filings for water presently used in South Dakota or for water that might be additionally used by additional storage which could serve all of the lands in Wyoming that are susceptible to irrigation and provide supplemental water for the project in South Dakota.

Mr. HORAN. My own reaction is that this has already been agreed to by the two States involved. It is amendable, and I am rather inclined to agree with it.

I see on the map which you gave us that there are several reservoir sites, and I wondered how much water at the extreme flow-off of the Belle Fourche River would be impounded if all those reservoir sites were put in and what effect that would have upon the flood conditions at any point.

Mr. STINSON. The Army has made a study of the need for flood protection in that area. My understanding is that all flood protection

that is required, in the judgment of the Army engineers, can be accomplished by the proposed reservoirs built in Wyoming. I am sorry that I cannot give you figures on what the prospective flood damage or historical flood damage is, but I understand that the matter has been given thorough consideration. Am I right in that, Congressman Case?

Mr. CASE. Yes. If I may be permitted, Mr. Chairman, to answer that question further: It would take about 10 years to fill it to 276,000 acre-feet, taking the entire run-off and the floodwaters.

Mr. HORAN. What about the Caballo site?

Mr. CASE. The Caballo site is above that and would not have as much drainage or as much capacity. It is estimated at about 16,000 acre-feet.

The CHAIRMAN. We have here representatives of the Army engineers who can probably answer that question in due time.

Mr. STINSON. I should like, if I may, to annotate one of your statements of the actual apportionment. I think the record should be absolutely accurate on this. My understanding is, and I think the compact will bear it out, that the 90-10 division applies to the presently unappropriated waters of the stream; that the existing uses recognized by the compact are in addition to that. There are existing uses both in South Dakota and Wyoming, but certainly the bulk of them lie in South Dakota.

I should go on immediately there to point out that it was my observation in the course of the negotiations that this basis of apportionment was thoroughly acceptable to the representatives of both States. At no point of time was I able to detect any contest or any quibble over the fairness of the apportionment, and I take it that the statement made by Congressman Case explains why it was wholly acceptable.

Mr. FERNANDEZ. Is that 10 percent in addition to what is already being used and appropriated?

Mr. STINSON. Yes.

Mr. FERNANDEZ. It does not include any of that?

Mr. STINSON. It does not.

Mr. FERNANDEZ. On the other hand, the 90 percent does include water that has been used already, not locally appropriated?

Mr. STINSON. That is not quite correct. I take it that the existing uses are in addition.

Mr. FERNANDEZ. I understood Congressman Case or somebody to say that that 90 percent would include waters which are being used.

Mr. STINSON. May I read the portion of the compact that I think will answer that? I will read all of paragraph B on page 6 of the bill. In paragraph A there is an apportionment of 90 and 10 percent of the unappropriated waters. Then in paragraph B it is provided [reading]:

Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under (a) of this article, are agreed to be an equitable apportionment between the States of the waters of the basin.

Mr. FERNANDEZ. Then the 90 percent is in addition to the waters already being used?

MR. STINSON. That is as I understand it, sir. I want to emphasize again that that was thoroughly agreeable to the States. They understood that point, I believe, thoroughly.

THE CHAIRMAN. Let us clear up this point of what is involved. The bulk of the water is already appropriated and much of it is in use in the State of South Dakota. Does this compact go to all the waters of this drainage basin, 10 percent to Wyoming and 90 percent to South Dakota, or does it involve only the unappropriated waters?

MR. STINSON. It involves both, Mr. Chairman. It first recognizes existing uses. It recognizes those uses as valid. It then proceeds to deal with the now remaining unappropriated waters of the basin. When I say "now" I speak as of the date of the signing and the ratification by the States. The "now" unappropriated waters, in addition to the recognition of existing rights, were divided 90 and 10.

THE CHAIRMAN. Then, to sum it up, 10 percent of the water of this basin will go to set up a reserve by the State of Wyoming and 90 percent to South Dakota?

MR. STINSON. That is right, remembering that the economy in Wyoming in that basin is largely a livestock economy and that the compact would permit use in Wyoming outside of the 10-percent allocation any amount of water for domestic and livestock purposes. It should be noted here also that if a reservoir were to be built in Wyoming to serve irrigable lands in South Dakota, it is required by the compact that 10 second-feet of water shall be released from the reservoir at all times for livestock purposes.

There are, I think, two or three other points to which I should like to call your attention. The first is a very minor point, to get the history of the negotiations straight.

The statute pursuant to which negotiations were undertaken and participated in by the Federal Government, was enacted in 1927. That statute requires that the representative of the United States be of the Interior Department. I am in that Department, being employed by the Bureau of Reclamation. There was a considerable amount of controversy over the appointment of a Federal representative—though I doubt that it will serve any useful purpose to go into that discussion at this stage.

The compact, if you gentlemen will remember, follows in some respects an important aspect of the compact entered into in the last year by the States of Colorado, Kansas, and Nebraska, affecting the Republican River. In the course of the negotiations on the Republican River compact there was developed a formula for correlating, to the extent thought desirable by those participating in the negotiations, the relative rights of the State governments and of the Federal Government. That formula grew out of long negotiations. I will say it was not accepted or favored by all Federal agencies. The essence of the formula is in two points: First, that the States in that case and in this case have said, "We wish to compact on this basis, but we shall do so only if the Federal Government will direct its agencies in two particulars: One, that in the event the Federal Government undertakes to develop the water resources of the basin, exercising its constitutional authority over navigable streams and tributaries of navigable streams, it shall do so only after consultation with other interested Federal agencies if such development would prevent the full beneficial use of the compacted waters within the basin."

I take it, in a case like this that the "interested agencies" probably would be the Power Commission, the Department of the Interior, through the Bureau of Reclamation, and the War Department. By "interested" I take it is meant those that have a direct interest in the development of water resources of a given basin.

The compact provides that before a Federal program is undertaken that would interfere with the full beneficial use of the waters within a given basin there shall be consultation with the interested Federal agencies and with representatives of the States who shall administer this compact.

I take it that by "consultation" it is not meant that there shall be a controlling veto power in the States or other Federal agencies, but that the object of the provision is to give fair and full publicity to all water programs that might result in preventing further development within such basin, particularly irrigation development.

The CHAIRMAN. By the passage of this bill the Federal Government would become a party to this compact; would it not?

Mr. STINSON. I would not say exactly a party, though the bill would direct Federal agencies in certain ways. The United States would not become a signatory party to the compact.

The CHAIRMAN. If enacted into law it will be the law of the land; will it not?

Mr. STINSON. That is correct.

The CHAIRMAN. This compact will be a part of the law of this country.

Mr. STINSON. That is correct; and the activities of the Federal Government then will be governed by all of the provisions set out in section 2, including the one that I have just outlined.

The CHAIRMAN. Without this compact there was nothing to prevent the State of Wyoming diverting any waters that were within the State, in this basin?

Mr. STINSON. That is correct.

The CHAIRMAN. And it has always been found necessary through a long course of treaties for the several States to bargain with one another and with the Federal Government as to the apportionment of water?

Mr. STINSON. Yes, sir.

The CHAIRMAN. And if such a compact had not been entered into by the so-called upper basin States, Wyoming, Colorado and Utah, it would have been useless to build the Boulder Dam, because the water could all have been diverted within the boundaries of the States and the Boulder Dam would have remained empty?

Mr. STINSON. I think the experience of the Western States in dealing with interstate streams has been that a great deal of progress comes about by their being able to agree on what uses shall be made of the water in the States. We have instances where States have failed to agree or have not even attempted to agree at the outset with the result that they have spent large sums in litigation that has finally accomplished little and settled but few things.

The CHAIRMAN. The Bureau of Reclamation, in entering this area to put in a Federal project, will have to deal with the States under the provisions of this compact?

Mr. STINSON. It will have to recognize the terms of the compact; yes, sir. It will not have to actually contract with the States. It

will have to contract with local people for the repayment of expenditures.

The CHAIRMAN. Ninety percent of this water is now apportioned to the State of South Dakota and 10 percent to Wyoming. In the event that the Bureau of Reclamation wanted to go in and construct a project and operate it in this area it would have to deal—whether it had to contract or not—with the States having this water right?

Mr. STINSON. That is correct; yes, sir. There is a direction in the basic reclamation law that the Government, in connection with reclamation projects, must make filings under State law.

Mr. PHILLIPS. Is it the Chairman's idea that this is imposing a new principle?

The CHAIRMAN. That principle has been before this committee all through its proceedings. On the Republican River the States tried to get around it in the making of the compact between themselves by declaring that the waters of the Republican River were not navigable, for the purpose of excluding the Federal Government from control. That was vetoed by the President, you remember, and the bill was brought back here and revised. That question of State rights versus Federal rights is a very important one. We are dealing with it right here, and I wanted to clarify the record. That was the purpose of the Chair in asking those questions of a representative of the Government in the negotiations, to make clear to the Congress just exactly what we are doing.

Mr. STINSON. Article XIV is carried forward and made effective so far as Federal agencies are concerned by the provisions of section 2 of the proposed legislation. Article XIV is the statement of what the States want the Federal Government to do. Section 2 is the compliance by the Federal Government if the bill is enacted.

Mr. ROCKWELL. Where is section 2?

Mr. STINSON. On page 14 of the bill.

I had just made the point that a given Federal agency, on the enactment of this legislation, would be required under certain circumstances to consult with other Federal agencies and with the State officers administering the compact. There is a second important point here. The bill does carry provisions that involve a comparatively new principle. On the enactment of this legislation, the Federal Government, should it undertake a program in that basin that would impair an existing irrigation use within the basin, would be required by this legislation to recognize that use as a property right and to make equitable compensation therefor, even though it might have the constitutional power to proceed without such recognition.

That was one of the points of controversy in the early Republican River negotiations, and it led the States, I believe—this is only my own interpretation—to seek to have the Republican River declared by a compact not navigable. It may be questioned whether such a legislative declaration would have been constitutional. The problem confronting those States was solved, I think, in a fairly satisfactory manner, by letting the compact remain silent on the question of navigability, but providing that the compact was contingent on enactment of provisions in the consenting legislation that set up procedural limitations to govern Federal agencies and that would give adequate protection to existing rights within the basin as to irrigation

and domestic water rights. Under the formula there worked out, if the Federal Government has the jurisdiction it could exercise it, but it would be required to do so in conformity with the procedural and substantive requirements set out in section 2 of the consenting legislation (Public Law 60—78th Cong.). The principle embodied in that legislation was adopted by the States involved in the compact now before you. Actually the principle is relatively new. It needs some shaking down. It might not be suited at all to other situations. I do not think, that it is possible to judge now whether it will be; but at least in this case the States felt that it was a reasonable principle. I, speaking only in my own capacity, have felt that it was a reasonable solution to what was a difficult problem, as we know from experience in the case of the Republican River compact and that it merits consideration for application in other similar interstate water compacts. Mr. Roekwell, I think, knows from experience the difficulties encountered in the case of the Republican River compact, as do some of the rest of you, no doubt.

The CHAIRMAN. Turning to page 4, paragraph C, the term "beneficial use" is rather broad. It says [reading]:

The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man.

In the first place, you say "depleted" and you emphasize the depletion. It goes on to say:

and includes water lost by evaporation—

You would not call that a beneficial use, would you?

and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

You have not set up any priority. In the constitution of our State and, I think, in a good many others, domestic purposes come first, irrigation next, flood control next, and last of all, power generation.

Mr. STINSON. I would say that that point is one not appropriately covered by a compact, but is governed by the laws of the interested States. All this does is to divide the waters between the two States, leaving to each State to determine for itself what relative priorities should obtain. I do not know, as a matter of fact, but I believe it is probably true both as to South Dakota and Wyoming that there is such a declaration either by their constitutions or by their statutes.

The CHAIRMAN. How do you construe the word "evaporation" to be a beneficial use?

Mr. STINSON. That is only by definition. It is related to beneficial uses; and the engineers who worked up the formula decided that the only way they could work out a formula that would tell them from time to time what the relative rights were was to include evaporation losses. They had in mind principally evaporation losses from large reservoirs, I believe.

The CHAIRMAN. In article VI on page 7 of the bill there seems to be very broad authority [reading]:

Any person, entity, or State shall have the right to acquire necessary property rights in another State by purchase or through the exercise of the power of eminent domain—

That seems to be all-inclusive—"any person." A power company or anybody else can go in under that provision and take anything. We are giving them authority, by this bill, to exercise the right of eminent domain. Do you not think that is a little liberal?

Mr. STINSON. Let me say this, Mr. Chairman. I do not think the Federal Government is giving this authority. That is a matter between the States, and they have agreed that that was an appropriate provision. Note, however, that it is limited to the exercise of rights in the fulfillment and the carrying out of this compact to which the States have agreed. I think it is a matter beyond the control of the Federal Government.

Mr. PHILLIPS. I do not see any limitation there.

Mr. STINSON [reading]:

for the construction, operation, and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by article V and article VII-A.

Again, I think it is important to note that this is a matter between the States and not, I think, for determination by the Federal Government.

Congressman Case and Congressman Barrett may wish to comment on that.

The CHAIRMAN. We make it the law when we pass this bill.

Mr. STINSON. I do not think that is quite the situation.

Mr. HORAN. The primary objective, apparently, of this compact is that of irrigation, is it not?

Mr. STINSON. That is correct; yes, sir.

Mr. HORAN. I see in the enactment clause of the bill that Federal agencies are to be consulted. If the Federal Power Commission objected to the procedure that followed the enactment of this compact the two States could go ahead anyhow, could they not?

Mr. STINSON. Yes.

Mr. HORAN. There is no veto power there?

Mr. STINSON. No, sir. There is only a requirement of consultation in certain situations.

Let me give you one other illustration to clarify this a little. It is conceivable, though I would think it is very unlikely in this particular basin, that the Federal Power Commission might wish to assert jurisdiction, say, over a private power development. I would doubt that its assertion of jurisdiction would interfere with the use of waters within the basin. If it would not, then it would not be required to consult.

Let us take another illustration. I will use the Bureau of Reclamation, because I know its activities. It is possible, though, again, I think only remotely possible, that at some point down here [indicating on map] a large irrigation development would come into the picture. To carry that development through would require that all the unappropriated water in this basin should come on down for use at that point. The Bureau of Reclamation, before undertaking that kind of a project that would prevent full development of waters for beneficial use within the basin of the Belle Fourche, would be required to consult with other interested Federal agencies and with the State officers administering this compact. That requirement of consultation (there being no veto power in the other agencies) strikes me as

being a fair requirement. If the Federal Government approves an over-all plan for the relative uses of waters between States, it is only fair that there be the most careful and open consideration of any plan by it that runs counter to that plan.

Mr. ROCKWELL. The Republican River compact did not contain such a provision, did it?

Mr. STINSON. Yes.

Mr. BARRETT. There is a provision here for reimbursement for loss of taxes. Has such a provision been in all these compacts?

Mr. STINSON. It has been in two compacts, only, so far as I know, the Republican River compact and this compact. I shall go on, however, to point out what I believe is the correct construction of that.

Mr. BARRETT. I wish you would.

Mr. STINSON. The provision for payments in lieu of taxes would apply to agencies other than the Federal Government going in there to build a reservoir.

Mr. PHILLIPS. That is referred to on page 11 in lines 4, 5, and 6.

Mr. STINSON. That is right. The Federal Government is exempt from the payment of taxes.

Mr. BARRETT. The basis there is the average tax for the preceding 10 years on the lands and improvements. What is meant by improvements? Does it mean new improvements put on by the private agency, or the improvements on the land over a period of years?

Mr. STINSON. I would say it means the improvements on the land prior to its being used or as existing at the time the use was commenced; not new improvements.

Mr. BARRETT. Would that be in lieu of taxes on the physical assets of the power company going in there?

Mr. STINSON. Let us take the case of a private power company. I suppose they would be taxable. In any event, they are not tax-exempt. It might be possible, however, for a municipality to develop and supply power. The municipality might ordinarily not be taxable, but under this compact it would be taxable.

Mr. PHILLIPS. That is not Mr. Barrett's question. It would only be taxable on the value of the land. It would not be taxable on anything it might have built in connection with the project.

Mr. STINSON. That is correct; yes, sir.

Mr. CASE. A municipal company could go in there and not be taxable?

Mr. STINSON. I think that is correct.

Mr. CASE. Whatever the State law is would have to govern. If there is a State law that governs municipal power plants, that would apply.

Mr. HORAN. If a storage dam for either irrigation or power, which the State or county is depending upon for taxes, is destroyed, there should be some sort of reparation.

Mr. STINSON. That is what this is for.

Mr. HORAN. Some of these reservoirs would be taxable for that purpose.

Mr. PHILLIPS. They would not be taxable if they were built by the Federal Government. I had intended to raise a sort of general question, not applying to this bill at all, but to the increasing number of times that the Congress or the Government acts to create areas of the Federal Government which are taken off the tax rolls. It is

becoming a serious thing west of the Mississippi; and we see in this bill, on page 11, that the Federal Government may not at any time be taxed. We provide an absolute prohibition in this bill against the taxation of the Federal Government at any time for anything it may do in connection with this.

The CHAIRMAN. That principle has been pretty well recognized. I believe the States of Arizona and Nevada, under the revision of the Boulder Canyon Act, get \$300,000 a year in lieu of taxes.

Mr. CASE. If I may interrupt: The point that was just raised regarding the language on page 11 of the bill must be considered in connection with the opening sentence of the article:

Nothing in this compact shall be deemed: * * * to subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes.

So that all that article XIII does is to say that this compact shall not create some tax liability in respect to the Federal Government. If the Federal Government is subject to payments in lieu of taxes, as it is under the Great Plains Act——

Mr. PHILLIPS. That would still apply. It simply says that nothing in this act shall apply. Mr. Case is right. Mr. Stinson said there was nothing in this compact which creates any new development. That could be taxed under the separate terms of other legislation.

Mr. MURDOCK. I think it is an established principle, over the past few years, anyhow, that where an improvement is made the States affected are to receive payments in lieu of taxes. Not from the Federal Government, however, as the chairman indicated a moment ago, in the case of Nevada and Arizona, because the payments there are provided by private power users.

The CHAIRMAN. I think the language of the act is that they shall be paid out of the Federal Treasury from receipts of money that has come in from earnings of the Boulder Dam project.

Mr. MURDOCK. But it is a payment made by private power users.

The CHAIRMAN. In other words, the Federal Government is the collecting agency?

Mr. MURDOCK. That is right.

The CHAIRMAN. And the Government is the guarantor that they will get their payments out of that money. It is \$300,000 a year, is it not?

Mr. MURDOCK. Three hundred thousand dollars each, annually.

The CHAIRMAN. Over half a million dollars a year in lieu of taxes. That language was objected to very strenuously by the Department of Justice, as I remember, but it went into the bill. They did not want to establish that precedent.

Mr. MURDOCK. I do not think yet that you can say the Federal Government pays that except as it is collected.

The CHAIRMAN. Suppose there was not any income from the sale of power: do you mean that they would not receive any tax?

Mr. MURDOCK. I am not sure how it would be in that case.

The CHAIRMAN. I think it is an obligation of the Federal Government.

Mr. STINSON. I would have to look it up. I am not familiar with it offhand.

Mr. PHILLIPS. As one interested in the Colorado River Compact and the development, I would be glad to have you look that up.

Mr. STINSON. I will be glad to do that.

Mr. HORAN. I am most anxious that the States be protected against the loss of tax money. Is it not possible through the wording here for them to lose that tax money?

Mr. STINSON. Now, again, you are dealing with a provision of the compact to which the States have agreed; and as Congressman Case has said, it says that "Nothing in this compact shall be deemed to subject any property of the United States," and so forth.

The CHAIRMAN. Will you cite the language you have just quoted?

Mr. PHILLIPS. It is on page 10, Mr. Chairman, about halfway down.

Mr. HORAN. You are right; this has already been agreed to by the States.

Mr. STINSON. And ratified by the State legislatures.

Mr. MURDOCK. Has the gentleman concluded?

Mr. STINSON. I have no further comments.

Mr. MURDOCK. Before I begin to ask questions, would you be kind enough to repeat for my benefit the statement made previously about some new principles being involved here that are not well shaken down yet? I did not quite get that.

Mr. STINSON. Yes; I will try to repeat that. Those principles are new in that this is but their second application, the first application being in the Republican River compact.

Mr. MURDOCK. May I say this right there. I recall the legislation early this session. In my judgment, what was expressed in that provision then is being duplicated in this proposal; is that correct?

Mr. STINSON. That is correct, sir.

Mr. MURDOCK. Pardon my interruption. Go ahead.

Mr. STINSON. You may recall, in the case of the Republican River compact, that in the first compact there was an attempt to declare the stream not navigable. I take it that grew out of the fear on the part of the States that the Federal Government would find the stream navigable and undertake developments in there that conceivably would prevent full beneficial use of the waters within the basin, and they might even go so far as to interfere with existing rights, without being under the statutory or constitutional obligation of making compensation even in the case of irrigation rights. Certainly it was true that without a compact and consenting legislation with provisions of this kind in it the Federal Government could proceed under its constitutional authority without consulting the States in the use of the water in the basin and without making compensation for rights that were impaired.

The CHAIRMAN. I wonder if it was a plan to relieve private utilities, going in and using this water for power generation, from dealing with the Federal Government. If the stream was declared not navigable by law, the private utilities could go in and not have to deal with the Federal Government. Was not that the objective of this proposed interpretation that the water was not navigable?

Mr. STINSON. I did not so understand it, Mr. Chairman. I had understood that they were concerned about all waters within a given stream and were concerned about the principle that if a stream is

navigable, then the Federal Government could proceed with whatever development it chose without regard to existing rights and without compensation for existing rights and without having first consulted the interested States.

The CHAIRMAN. To state it in another way, did not that language in the compact remove the waters from the jurisdiction and control of the Federal Government?

Mr. STINSON. I think that is true. In this case as in the case of the Republican River compact as finally approved, there is no such declaration. Whether or not the stream is navigable depends on the facts and what the courts say, I take it. There is, however, written into the compact as the desire of the States, and into the act if the bill is enacted into law, a direction that Federal agencies shall do two things: They shall, if they propose to undertake a project that would prevent the full development of the waters of the basin for beneficial uses therein—we are dealing here with the total water supply of the basin—consult with other interested Federal agencies and with the State officers administering this compact. That is point 1.

Secondly, supposing they have consulted but determine that the best use of the waters indicates that it would be desirable to proceed with the project even though it prevented full use within that basin. If the project should be found to impair existing rights, then under the second principle the Federal Government would be under the obligation of making compensation for those rights so impaired.

Those are the two legs of the new principle.

Mr. ROCKWELL. Mr. Chairman, I must leave. I understand you are going to hold this bill up for some time?

The CHAIRMAN. I think it would be fair to the Government department to do that. It may be necessary to hold a second meeting.

Mr. ROCKWELL. I think there should be a limit on it.

The CLERK. One week is what they ask.

Mr. ROCKWELL. I am wholeheartedly in favor of this bill.

The CHAIRMAN. We will notify them that we are going to take definite action next Friday, and it will be up to them to get their statements before the committee.

Mr. MURDOCK. Do I understand, Mr. Stinson, that this bill protects the rights of the States over the control of the waters within those States?

Mr. STINSON. I would say it protects both Federal and State rights, but recognizes them for what they are. It does not seek to cut down any of them. That is my understanding.

Mr. MURDOCK. As you members of the committee know, I was very much interested in the legislation with reference to the three-State compact, and furthered it all I could. I think that is the only way of settling these complex cases that raise new principles with interstate streams involved.

I have one more question or two. Do I understand now that this proposal is to add additional supplemental water to an existing project?

Mr. STINSON. It removes an obstacle that has stood in the way of undertaking that. It does not of itself authorize that undertaking; it does not appropriate money; it does not give substantive authority for the undertaking; but it removes the obstacle that has been in the way of undertaking that supplemental construction.

Mr. MURDOCK. Further with regard to the 10 and 90 percent proportion which has been agreed to by the States in the compact, can you indicate what proportion of this water supply is precipitation in Wyoming and what proportion is precipitation in South Dakota?

Mr. STINSON. I am sorry; I do not know. My understanding is that there is a gradual increase in precipitation from west to east, but it is relatively small. I would guess that it is maybe about 50-50. That would be my guess. Congressman Case may know from experience.

Mr. CASE. I think probably most of the water falls in Wyoming.

The CHAIRMAN. Based on the area stated before this committee, it is about two-thirds in Wyoming and one-third in South Dakota.

Mr. CASE. That is speaking of the water above the Belle Fourche project.

The CHAIRMAN. Is it not fair to suppose that the precipitation would be about in the same proportion over the area; that one-third will fall in South Dakota?

Mr. CASE. That might be.

Mr. MURDOCK. I had reference to the total storage of water, including the lowest reservoir, if there is more than one.

Mr. CASE. I think a lot of the point of this whole bill is being missed by looking at that 10 and 90 percent without understanding the origin of the bill. The origin of the bill rests upon the mutual interest of the Federal Government and the interests of Wyoming and South Dakota.

The CHAIRMAN. Is it not the policy of the Bureau of Reclamation to pay little attention to State lines when they are using water to reclaim arid land?

Mr. CASE. Unfortunately, at the time the Belle Fourche project was set up that policy was not established.

Mr. MURDOCK. I appreciate the explanation just given by my colleague from South Dakota on the 10 and 90 percent proportion, but that does not quite get at what I am driving at. As a matter of simple justice and wisdom, there are several bases on which you can apportion water to various communities in the West. One school of thought says it ought to be apportioned according to the amounts falling on given areas. Evidently we are not following that in this case, are we?

Mr. STINSON. I think probably we are not.

Mr. MURDOCK. If more of the water falls in Wyoming than in South Dakota we are evidently not following that proportion by assigning a larger proportion of it for use in South Dakota. I approve of this arrangement, for I see why it is made. Evidently there is more usability in South Dakota than in the State of Wyoming.

Mr. STINSON. That is correct.

Mr. CASE. That is exactly correct.

Mr. MURDOCK. I think that apportionment is a matter of justice, and the putting of it into practice is a matter of good public policy.

Mr. PHILLIPS. Will the gentleman yield for a question there?

Mr. MURDOCK. Yes.

Mr. PHILLIPS. I do not know the area, and I am asking out of curiosity. Is there more usability in South Dakota than in Wyoming because of the nature of the land, or that the project has already been started and has the jump on Wyoming?

Mr. CASE. Both. Look at the map.

Mr. STINSON. Investigation shows that this is a very erratic stream. The water is not snow water; it is rain water, largely. It is not from packed snows such as you get in mountains; so the run-off is quite erratic. The best reservoir sites are very close to the South Dakota line. There is a livestock economy in Wyoming and this compact recognizes that.

Mr. MURDOCK. That is fair and just. The economy of South Dakota is more agricultural? It has more land which can properly use that water?

Mr. STINSON. That is correct, sir.

Mr. MURDOCK. And requires irrigation?

Mr. STINSON. Yes, sir.

Mr. MURDOCK. And that is why it is more usable in the one State than in the other?

Mr. STINSON. That is correct.

Mr. MURDOCK. That is the thing I wanted to bring out.

The CHAIRMAN. Are there any further questions?

Mr. HORAN. I would like to hear briefly a representative of the Army.

The CHAIRMAN. We were trying to finish with this witness.

Mr. MURDOCK. I have no further questions of this witness.

Mr. PHILLIPS. How long has this irrigation project been in existence? I think it was spoken of as being back sometime ago.

Mr. STINSON. I think it was practically started in 1906. It may have been 1909. That was the very beginning of it.

Mr. PHILLIPS. That is all.

The CHAIRMAN. We thank you, Mr. Stinson.

The CHAIRMAN. We would like to hear from a representative of the Army engineers.

STATEMENT OF KENNETH J. BOUSQUET, ASSOCIATE ENGINEER, WAR DEPARTMENT, WASHINGTON, D. C.

The CHAIRMAN. Are you familiar with the terms of this compact?

Mr. BOUSQUET. In a very general way; sir.

The CHAIRMAN. Have the Army engineers had an opportunity to study the compact, and have they made investigations of the Belle Fourche River?

Mr. BOUSQUET. The Army engineers had a representative at Cheyenne at the time the compact was drafted, and had made previous investigation of the Belle Fourche River. It is not a navigable stream and, apparently, is not susceptible to navigation. There was a 308 report made some years ago which showed the justification for a local protection project at the city of Belle Fourche. That was authorized in the 1936 Flood Control Act. It was the basic authorization for flood control.

The CHAIRMAN. Are you familiar with the position of the Army engineers on this legislation?

Mr. BOUSQUET. Indirectly; sir. Usually that comes from the Secretary of War.

The CHAIRMAN. You may proceed.

Mr. BOUSQUET. Thank you; sir.

The local protection project at Belle Fourche has been built. There does not appear to be any other feasible flood-control project on the Belle Fourche River. As far as future flood control is concerned, I think that would be protected by a tripartite agreement whereby all of our reports are sent to the Bureau of Reclamation for clearance and for the views of that department and, in turn, they send their reports to us, so if at some later date there should be justification for storage in any project, I think that we would fully take care of it.

I had not prepared any statement, sir, because I did not know that I was coming here this morning.

The CHAIRMAN. We wanted to know something of the studies made by the War Department or the Army engineers.

Mr. HORAN. In looking at that map I believe I noticed that Carlile, Caballo, and one or two other suggested storage areas are shown, all of which are capable of storing some water, and I was anxious to know their capacity and their practicability and the effect that that might have upon flood control, and whether they are feasible or not; in other words, a report embracing that factor. I think it is rather important to us in gaining the good will and the interest of the rest of the Nation. I would like to have those phases covered by a letter.

The CHAIRMAN. Will the witness make a note of that and let that be covered?

Mr. BOUSQUET. Yes, sir.

The CHAIRMAN. Do the records of the Army engineers disclose that there has been any flood damage or floods to any extent in the Belle Fourche River?

Mr. BOUSQUET. There have been some floods, sir. The principal damage center is apparently at the city of Belle Fourche, which has been protected by local protection. In other damage centers the benefits would not justify the cost of construction of protective works.

The CHAIRMAN. Are there any further questions? If not, we thank you very much for your appearance.

(The letters requested are as follows:)

WAR DEPARTMENT,
Washington, November 2, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

MY DEAR MR. WHITE: Reference is made to your letter of October 8, 1943, advising that hearings have been started by your committee on House bill No. 2580, to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes, and stating that if this Department cared to submit a statement on this bill you would be glad to make it a part of the record.

It is proposed by the bill to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming. The compact which is recited in the bill provides for a division of the waters of the Belle Fourche River and for their efficient use for multiple purposes, and curtails the jurisdiction of the Federal Government over such waters.

Article XIV of the proposed compact will, if approved, restrict the exercise of Federal jurisdiction as follows:

Paragraph A will limit the amount of water that can be used by the United States.

Paragraph B provides, in effect, that the Federal right to undertake and prosecute navigation, flood control, power development, and other allied projects in the Belle Fourche Basin shall not be exercised except upon a determination, after consultation with all interested Federal agencies and State officials, that such

exercise is in the interest of the best utilization of the waters of the basin for multiple purposes.

Paragraph C provides that the United States will recognize as property, validly established rights to waters used for domestic and irrigation purposes.

The War Department does not favor such restrictions.

However, article I B provides that "* * * None of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream." Also upon careful consideration of the compact in its entirety the War Department is of the opinion that its approval by Congress would not cause any serious interference with the prosecution of any presently authorized flood-control project, or with the carrying out of any project which Congress may hereafter authorize. In view of these circumstances the War Department interposes no objection to the enactment of H. R. 2580.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, October 11, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

MY DEAR MR. WHITE: Reference is made to your request of a representative of my office during the hearings on H. R. 2580 before your committee on October 8 for information on the navigation and flood-control possibilities in the Belle Fourche River Basin, Wyo. and S. Dak., with particular reference to the construction of dams at the Caballo, Colony, and Hulett sites. In accordance with your request, I am pleased to furnish the following information:

The Belle Fourche River rises in northeastern Wyoming, flows northeasterly 200 miles, then turns abruptly around the northern limits of the Black Hills and continues southeasterly 200 miles into South Dakota, joining the Cheyenne River, a tributary of the Missouri River, near Gumbo, S. Dak. The river is not navigable and is not susceptible to improvement for navigation. Floods are comparatively infrequent on Belle Fourche River. On the main stream, only the city of Belle Fourche and the agricultural section below the city experience flood damage. Several other communities and their adjacent rural areas are occasionally affected by tributary floods.

Under the provisions of House Document No. 308, Sixty-ninth Congress, first session, which was enacted into law with modifications in section 1 of the River and Harbor Act of July 21, 1927, the Department investigated the Cheyenne River Basin, including the Belle Fourche River, for flood control and other purposes. The report on that investigation is published as House Document No. 190, Seventy-second Congress, first session. The Flood Control Act, approved June 22, 1936, authorized a project for flood control at Belle Fourche, S. Dak., in accordance with plans contained in that House document. Pursuant to that authority, the Department completed, in 1940, a levee for the protection of Belle Fourche at a cost of \$37,400. This levee protects a portion of the city on the right bank of Belle Fourche River above the mouth of Redwater River. Additional levee works at an estimated cost of \$32,000 along Redwater River and Hay Creek, originally contemplated in this project, were not constructed because of the failure of local interests to provide the necessary lands and rights-of-way, as required by law.

The Flood Control Act, approved June 22, 1936, also authorized a preliminary examination and survey of Belle Fourche River and tributaries, Wyoming. That investigation showed that the cost of storage for flood control, whether in reservoirs for flood control alone or in multiple-purpose reservoirs, would greatly exceed the prospective flood-control benefits, and that local flood protection works would not be justified economically except at Belle Fourche where additional levee work, as previously authorized under the existing project, is needed and is justified. The Chief of Engineers, in his report on the investigation, dated June 30, 1941, stated that improvement of Belle Fourche River for flood control other than as already authorized was not advisable at that time.

A reservoir at the Hulett site was considered by the Department in its report on the Cheyenne River, contained in House Document No. 190, Seventy-second Congress, second session. The project considered at that time provided for a dam 73 feet high and 950 feet long, creating a reservoir having a capacity of 16,000 acre-feet. The capacity available at this site is considered insufficient for advantageous operation for both flood control and water conservation. The potentialities of the site for the sole use of providing water for existing irrigation development have not been studied in detail by this Department.

Consideration was given to the development of a large storage reservoir on the Belle Fourche River having a capacity of 500,000 acre-feet and with a spillway which would discharge into an offstream reservoir on Kilpatrick Creek with a capacity of 118,000 acre-feet. The proposed main dam on the Belle Fourche River would be approximately 2,800 feet long and 200 feet high above stream bed. Primary figures indicated that the best plan of operation for such a project would be to utilize the 500,000 acre-feet reservoir on the main stream for the production of power and carry-over irrigation storage, and reserve the off-stream reservoir on Kilpatrick Creek for flood control. Due to the unfavorable foundation condition at the Kilpatrick site and the high construction cost, the flood-control benefits would not be sufficient to pay the cost of the Kilpatrick reservoir for flood control. The proposed development of both reservoirs would cost well over \$10,000,000, and preliminary figures indicated that those projects would not be justified.

Studies were made of the proposed Colony Dam and Reservoir on the Belle Fourche River in Crook County, Wyo., about 32 miles above the Wyoming-South Dakota State line. The proposed plan of improvement provided for a dam 119 feet above stream bed to create a reservoir having a capacity of 72,000 feet, of which 26,000 acre-feet would be reserved for water-conservation purposes. The estimated first cost of the Colony Dam and Reservoir is \$2,706,000, and the estimated annual cost is \$124,150. The total direct annual flood-control benefits resulting from the construction of the Colony Dam and Reservoir are estimated at \$6,750, and \$1,350 indirect, making a total of \$8,100. The Bureau of Reclamation, after deducting reservoir losses and stream-bed losses on released storage, estimated that the average annual increase in irrigation water supply resulting from the construction of the Colony Dam would amount to less than 2,500 acre-feet. The Department concluded that a multiple-purpose development at the Colony site was not economically justified.

A proposed development studied for the Caballo site consists of construction of a dam and reservoir on the Belle Fourche River below the mouth of Caballo Creek. Two schemes of development for water conservation have been proposed. The first contemplated a reservoir having a storage capacity of 10,000 acre-feet, and the second a reservoir having a capacity of 60,000 acre-feet. The preliminary investigations indicated that the cost of developing this site was so excessive that no detailed analysis was made.

I trust that the data contained in the paragraphs above will furnish the committee the information which it desires at this time.

Very truly yours,

E. REYHOLD,
*Major General,
Chief of Engineers.*

The CHAIRMAN. Is there someone else here from the Department of the Interior?

Mr. SLAUGHTER. Yes.

The CHAIRMAN. For the purposes of the record will you state your name?

Mr. SLAUGHTER. Herbert J. Slaughter, assistant solicitor, Department of the Interior.

The CHAIRMAN. Mr. Case, do you know of any bad floods or flood damage in the Belle Fourche?

Mr. CASE. I have gone into that quite a bit. We had a reexamination of the flood situation on the Belle Fourche River since we had a bad flood up there, and the Army has suggested, in addition to the works we have already constructed, the possibility of some additional levee works in the city of Belle Fourche to protect what is known as

the rodeo or round-up grounds. But that was conditioned upon getting certain rights-of-way, and the people thought that the costs exceeded the probable damage. So that nothing has been done in that respect.

There is some flooding at Belle Fourche which comes down from Hay Creek, but that would not be reached by protection above the city, because Hay Creek flows into the Belle Fourche at the lower end of town.

The CHAIRMAN. Is it not conceivable that as our oil resources diminish in this country electric power may come into more general use and we may want to fully utilize the Belle Fourche River system for the generation of power? What is the prospect in that connection? We will be very glad to have you make a statement to the committee.

STATEMENT OF HON. FRANCIS CASE, A REPRESENTATIVE IN THE CONGRESS OF THE UNITED STATES, FROM THE STATE OF SOUTH DAKOTA

Mr. CASE. Mr. Chairman, one of the examinations made by the Bureau of Reclamation contemplated a scheme for supplemental storage by the building of two reservoirs at Colony and at the Kilpatrick site and the generation of power there, but they were regarded as not as desirable and feasible as at the Carlile site.

The CHAIRMAN. But if gasoline supplies continue to diminish at their present rate those points might come into use very soon?

Mr. CASE. They might. But there is also a question about the water supply. A dam is somewhat uncertain. If it is agreeable with the chairman I would like to say a little bit about that as the background for this bill.

The CHAIRMAN. I think that in the investigations of this committee looking to the future it is well to take into consideration the power possibilities of the streams throughout the country. It begins to be apparent to the people of this country that they are going to have to look more to electric energy and less to petroleum to furnish everyday power.

Mr. CASE. That is one of the reasons for the importance of the passage of this bill.

The CHAIRMAN. You may proceed.

Mr. CASE. I appreciate the opportunity of appearing before this committee, because I personally regard the work of this committee as the most important that is done in the development of the West. Having served 2 years under your chairmanship, which were very pleasant years, I welcome the opportunity to come back and appear before the committee.

This bill affects three parties and it is of mutual interest to the three parties. The three parties are the State of Wyoming, the State of South Dakota, and the United States.

The interest of the State of Wyoming is this, that the people in the northeastern part of Wyoming would like to utilize the water in the Belle Fourche River. There are two limitations upon any development at the present time. One is the physical features of the river. The little map that has been passed around shows that there is one reservoir suggested at the Carlile site, another the Caballo site, and there are a number of sites over against the South Dakota line.

Obviously, it will offer no benefit to Wyoming. There is no land, practically, below it. The State line reservoir site is actually on the South Dakota side. The higher you get on the headwaters of the Belle Fourche River the rougher the country you run into, until you get back in the area of the Caballo site. You will notice there are a lot of tributaries. It is very rough country, and there is no irrigable land. The irrigable land is farther down the stream. There is one piece of 3,000 acres, another of 7,000 acres, and then down below the so-called Carlile site there is a piece of 6,000 acres. These are figures from the Army survey, in a report made to the Seventy-second Congress. The physical limitations are such that there could not be over 7,000 or possibly 10,000 acres irrigated in the State of Wyoming.

However, the State of Wyoming, if it were so disposed, could gather up the money and itself build a dam in the upper part of the Belle Fourche River which would impound the waters which normally flow across the State line 2 feet over the dam into the State of South Dakota. That means a Federal interest.

The limitation on the development in Wyoming is further made evident by the fact that the Federal Government has an investment of several million dollars in the Belle Fourche project and in the State of South Dakota. Obviously the Federal Government is not going to contribute to the building of a project in Wyoming which would destroy a project in South Dakota, without some understanding about the division of the water.

That is what this bill proposes to do—make a division of the water which will afford ample water in Wyoming for the development of irrigable acres that are below any feasible dam site and also to protect the stock water and domestic uses of Wyoming.

The CHAIRMAN. Is it not contemplated that there will be a supplemental storage that will augment the supply of water?

Mr. CASE. In the State of South Dakota?

The CHAIRMAN. Yes; and that the present district may be enlarged?

Mr. CASE. That arises out of the South Dakota interest, to which I will come in just a moment.

In connection with the division of the water I think it is a little unfortunate that in the printing of the bill the 9 and 10 lines happened to come at the bottom of page 5 and that the committee has not read the proviso that immediately follows at the top of page 6. It says:

Provided That allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity.

And then it further provides that Wyoming—

shall have the privilege of purchasing at cost not to exceed 10 percent of the total storage capacity of any reservoir or reservoirs constructed in Wyoming for irrigation of lands in South Dakota.

Further, on page 9, article VIII provides—

In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

So that the bill definitely establishes the possibility of storage in Wyoming which will provide water for the irrigation of all the irrigable

lands and, on top of that, protection of all the stock water and domestic-use water that Wyoming will take.

The CHAIRMAN. That safeguards the danger of drying up the stream entirely by storage so that there will be no water for stock along the stream?

Mr. CASE. That is correct.

The interest of the Federal Government and the interest of South Dakota arise out of the dry spell in 1930 to 1940. The Belle Fourche project originally contemplated irrigating 76,000 acres. We have never irrigated over 40,000 acres and, generally speaking, it has been considerably less than that. During the dry years of 1934 and 1937 the normal demand for the water was built upon a water duty use estimate of 24 inches per acre. We had 6 inches and 9 inches of water. The dam was drawn down to such a point that there was very little water in it. The result of that was that this project and other projects similarly ran short of water in those years, and the people came to the Congress and to this committee and relief legislation was passed relieving them of part of the payment of the construction charges. So, recognizing that the water that the Government had contracted to deliver was not there to deliver, both the Federal Government and the State of South Dakota had a joint interest in the creation of some supplemental water supply to increase the amount of water available for irrigation.

There are two ways in which it can be done. One would be to increase the capacity of the inlet canal. If we increase the capacity of the inlet canal in the State of South Dakota nobody could object or say anything about it. The water that is lost goes down the river and it all comes down in the high floods in greater volume than the inlet canal can handle. If we were to increase the inlet canal the present dam could be kept full of floodwaters. There is about a 9-mile inlet canal from the river to the dam.

The CHAIRMAN. You mean a diversion canal that diverts the water from the river into the reservoir created by the dam?

Mr. CASE. Yes. That Orman Dam is an off-stream reservoir.

The CHAIRMAN. And that canal did not divert sufficient water to fill the reservoir?

Mr. CASE. That is correct. That canal cannot handle all the floodwater. One question would be whether it is more feasible to enlarge that canal or to build a supplemental reservoir upstream. If the canal were enlarged, of course, it would mean nothing to the State of Wyoming. Moreover, the land which is fed by the Johnson lateral, which is a lateral which feeds off from the diversion canal and not from the reservoir, would not get any benefit, because the land is too far upstream.

So that South Dakota and the Federal Government have an interest in building supplemental storage; and this bill is merely an attempt in sitting around the table to work out some plan whereby Wyoming can have the possibility sometime of construction in Wyoming to take care of irrigable areas in Wyoming, protect their stock water, and provide supplemental storage for periods of shortage in South Dakota.

The compact was developed under an act approved by Congress back in 1927, authorizing the creation of a power commission, and a compact proposal was ratified by the State of Wyoming in the legislature last year without a dissenting vote in either house or senate.

In the South Dakota Legislature there was one man who voted against it on the basis that he was opposed to all reclamation irrigation. But so far as I know, that was the only vote that has been cast against it.

The CHAIRMAN. Was there any year in which the Belle Fourche Reservoir did not fill?

Mr. CASE. It was not full for a long period of years between 1930 and 1940.

The CHAIRMAN. If this diversion canal had been enlarged would it have filled during those years?

Mr. CASE. It would have helped considerably in those years. Of course, the diversion is not entirely satisfactory, since you bring up that point, because it would limit storage to the capacity of the Orman Dam; and if you had some year in which the floodwaters were sufficient to exceed the capacity of the Orman Dam, then, of course, you would lose it down the river. If you had a dam upstream farther it would increase the storage capacity and you would be able to capture that water and carry it over.

The CHAIRMAN. It is difficult to conceive a plan in the field of reclamation under which the water would continue to flow down the river and would not fill your reservoir. I do not quite understand how that came about. But it seems to be a fact, from the statements that have been made to the committee.

Mr. CASE. I think that grows out of the lack, perhaps, at that time of a long enough period of keeping water records. The records show now that in the decade from 1930 to 1940 we had an average loss of water per year of 4.3 inches. In other words, we accumulated during the decade of 1930-40 a deficiency of 4.3 feet, as opposed to the decade of 1920-30, the decades of 1910-20, 1900-10, and 1890-1900.

The CHAIRMAN. I might observe to the witness that there is a comparable condition in Idaho. Our purpose there is to go farther upstream and build an auxiliary reservoir that will hold back the water until it is needed in the fall months to supplement the water that is stored in the dam that fills to capacity.

Mr. CASE. Of course, that would be the same thing we had in a year when the floodwaters exceeded the capacity of the Orman Dam.

Mr. MURDOCK. If a storage dam is constructed higher up the river it would have sufficient capacity to regulate the stream so that this canal that leads into the main reservoir would take care of the situation. You would not have to have both, would you?

Mr. CASE. No. Of course, there might be some year in which there would be a cloudburst between the dam site and the canal, but, generally speaking, the dam site above would take up enough water so that the canal would handle the rest of it.

The CHAIRMAN. Does that complete your statement?

Mr. CASE. Yes, sir.

The CHAIRMAN. Referring to the request of the power commission, the Chair will adjourn the meeting subject to the call of the chairman. We might set the next hearing a week from today, at 10 o'clock in the morning. I am going to insist that the Power Commission get in its report promptly, and it may be that we can call a meeting and act on this bill sooner. I do not think it will be necessary for any representatives of the departments to appear further. I hope that when we call the next meeting we will have prompt attendance so that we can pass

the bill quickly. I would like to do it now, but in deference to the request of the power commission we will defer action until that commission's report is before the committee.

If there is no further business the Chair will declare this meeting adjourned.

(Whereupon, at 11:55 a. m., the hearing adjourned subject to the call of the chairman.)



BELLE FOURCHE RIVER COMPACT

FRIDAY, OCTOBER 15, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON IRRIGATION AND RECLAMATION,
Washington, D. C.

The committee met at 10 a. m., Hon. Compton I. White (chairman) presiding.

The CHAIRMAN. The committee will come to order. This meeting is for the purpose of continuing hearings on H. R. 2580, which were adjourned last Friday, October 8, to permit time for the chairman of the Federal Power Commission to present a statement of his views on this bill.

We have his statement and he does not recommend disapproval or modification of this bill. This statement will be made a part of the record of these hearings.

(The statement is as follows:)

FEDERAL POWER COMMISSION,
Washington, October 15, 1943.

HON. COMPTON I. WHITE,

*Chairman, Committee on Irrigation and Reclamation,
United States House of Representatives, Washington, D. C.*

DEAR CHAIRMAN WHITE: This will acknowledge your letter of October 8, 1943, advising that hearings on H. R. 2580 relating to the proposed Belle Fourche River Compact have been continued until Friday, October 15, to allow this Commission time to submit a statement on this proposed legislation.

The Commission has examined H. R. 2580, embodying the Belle Fourche River compact, and submits the following report.

We are in full accord with the basic purposes of the proposed compact and heartily approve those sections of H. R. 2580 which are in conformity with the act entitled "An act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested," approved February 26, 1927 (44 Stat. 1247). In fact, the Commission is keenly aware of the importance of water in the arid regions of the West. It has issued no licenses and does not contemplate the issuance of any for power development in this area that would interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses.

In our letter of February 27, 1943, with reference to the Republican River Compact, the Commission has set forth in detail its objection to the inclusion in such compacts of language, unnecessary to the purpose of the compact, which can have no purpose except to restrict the Federal jurisdiction. We do not feel it necessary to reiterate our position which applies with equal force to the corresponding language in article XIV of the Belle Fourche compact.

On May 26, 1943, the President, upon signing S. 649, consenting to the Republican River Compact, stated:

"The procedure prescribed by the bill for the exercise of the powers of the Federal Government would not be entirely satisfactory in all circumstances but the prospects in fact for the exercise of such powers in the Republican Basin are not great. For streams where conditions are otherwise and there appears to be a possible need for Federal comprehensive multiple-purpose development or where opportunities for important electric power projects are present, I believe

the Republican River Compact should not serve as a precedent. In such cases the compact and the legislation should more adequately reflect a recognition of the responsibilities and prerogatives of the Federal Government."

We recognize that the Belle Fourche River belongs in the same general category as the Republican River and, as already indicated, we are in full sympathy with the use of this stream for the primary purpose of irrigation. For this reason we do not recommend disapproval or modification of the proposed bill.

We feel, however, the responsibility of calling to the attention of the Congress the importance of assuring that future interstate compacts, providing for allocation of water, shall be limited to the congressional purpose without language designed to cause Congress to legislate an unnecessary limitation on its jurisdiction.

The very fact that this undesirable language can have no importance in connection with such rivers as the Republican and Belle Fourche raises the question whether its inclusion in these compacts is not designed to establish a precedent for similar restriction of Federal jurisdiction in connection with rivers which offer important opportunities for comprehensive multiple-purpose development. We are convinced that the establishment of such a precedent would be inimical to the public interest in the development of the country's water resources.

Sincerely yours,

LELAND OLDS, *Chairman.*

CHAIRMAN. We also have letter from the Secretary of Agriculture recommending passage of this bill, and it will also be made a part of the record.

(The letter referred to is as follows:)

DEPARTMENT OF AGRICULTURE,
Washington, October 15, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

DEAR MR. WHITE: I appreciate your October 8 invitation to comment on H. R. 2580, a bill "to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes."

This bill would give the consent of Congress to the compact (authorized by the act of February 26, 1927) signed by the commissioners for the States of South Dakota and Wyoming on February 18, 1943, and thereafter ratified by the legislatures of these States. It would also provide (a) that any beneficial consumptive uses by the United States within a State, of the waters allocated by the compact, shall be made within the allocations made for use in that State and shall be taken into account in determining the extent of use within that State; (b) that the United States in the exercise of its rights or powers shall recognize, to the extent consistent with the best multiple use of the waters, that beneficial consumptive use of the waters within the Basin is of paramount importance to the development of the Basin and that no exercise of such rights or powers that would interfere with the full beneficial consumptive use of the waters within the Basin shall be made except on a determination that such exercise is in the interest of the best utilization of such waters for multiple purposes; and (c) that the United States will recognize any properly established use, for domestic and irrigation purposes, which may be impaired by exercise of any Federal jurisdiction.

Development of this compact has been under consideration for a number of years. At the invitation of the Representative of the United States, this Department had a representative present at the Cheyenne, Wyo., meeting on February 17, 1943, which was called to prepare and consider a compact. We have felt, and our representative so stated at that meeting, that the highest beneficial use should form the basis for use of the waters of the Belle Fourche River. The compact appears to set forth a practical means for accomplishing this. Agriculture is the principal industry within the basin. Irrigation of considerable acreages is desirable to assure a stable feed crop for the livestock produced on upland portions of the basin and to produce some cash crops.

This Department recommends passage of the bill.

This report has not been submitted to the Bureau of the Budget, and we are not advised as to its relationship with the program of the President.

Sincerely,

CLAUDE R. WICKARD, *Secretary*.

CHAIRMAN We have received the approval from all interested departments of the Government for this particular bill. Two of them, the War Department and the Federal Power Commission, while not disapproving this particular bill, have suggested that they do not want portions of this bill considered a precedent for future legislation, and for that reason, and in the interest of fairness, statements from the various departments will be published in their entirety.

If there are no further questions, the Chair will entertain a motion.

Mr. MURDOCK. I move that the bill H. R. 2580 be reported favorably.

Mr. HORAN. I second the motion.

CHAIRMAN. You have heard the motion, gentlemen. All in favor will make it known by saying "Aye"; opposed by saying "No".

The motion is carried. The bill H. R. 2580 is reported favorably. Mr. Murdock will you please make the report, and have it placed on the Consent Calendar?

Mr. MURDOCK. I will be glad to attend to that.

(Whereupon, at 10.30 a. m., the committee adjourned.)

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Sec. 10. Any person or group of persons, individually or collectively, who charge or collect or attempt to charge or collect, either directly or indirectly, any fee or other compensation, in excess of 5 percent of the amount of the claim actually paid under this act, for assisting in any manner any person in obtaining the benefits of this act, shall, upon conviction thereof, be subject to a fine of not more than \$500, or imprisonment for not more than 1 year, or both.

Sec. 11. It shall be unlawful for any person or claimant to swear falsely as to any claim, or to attempt by fraud to collect any claim under the provisions of this act, and any person or claimant violating any provision of this section, shall, upon conviction thereof, be subject to a fine of not more than \$1,000, or imprisonment of not more than 1 year, or both.

Sec. 12. The Commissioner shall submit a report to the Congress covering his activities under this act within 1 year from the date of his designation, together with such information, data, and recommendations for any further legislation in connection with payments of indemnity for losses and damages resulting from the Mediterranean fruitfly eradication campaign in the State of Florida as he may deem advisable.

Sec. 13. All power and authority of the Commissioner under the provisions of this act shall cease upon the expiration of 1 year after the date the Secretary of the Treasury designates a person as Commissioner under the provisions of the first section of this act.

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Oklahoma [Mr. STEWART] is recognized for 5 minutes.

Mr. STEWART. Mr. Speaker, a front-page news item appeared in last Tuesday's Daily Oklahoman naming me as 1 of 50 individuals in Oklahoma whose State income-tax return had been requested for scrutiny by the Tulsa County, Okla., grand jury upon the order of a district judge of that city. I wish to make a few observations.

I would have been only too happy to have shown the county attorney, Mr. Dixie Gilmer, all the copies of my tax returns had he even suggested a disposition to look them over. I mean all of my tax returns—from the first one I filed up to and including 1943. He knows as well as I know that I have never been an agent or recipient of a commission or fee or any other kind of remuneration, directly or indirectly, for the sale of textbooks.

I wish to say further to Mr. Gilmer and his cohorts and confederates that when he chose to smear my name he went just one name too far. I shall demand proof not only from him but from all who are responsible for bringing my name into this political maligning. When innocent people are made a party to an investigation that stinks of having been designed by men who think they are mighty, in my opinion it should be brought to the attention of the Department of Justice that the citizens of Oklahoma may know where such Gestapo scheming was born and who was present at the birth. I shall continue the fight to see that what is good for the goose is good for the gander. They should be as willing to bare their breasts to an investigation as any person they are attempting to destroy.

When I have further information upon the subject, I may call on the Department of Justice, or offer a resolution, asking for a thorough investigation of what happened preceding the calling and during the deliberations of this grand jury, when and where they met, and who were parties thereto. It is a sad day in America when any court of justice can be prostituted by politicians for their own selfish purpose. The press has heralded the name of Dixie Gilmer as a potential candidate for judge of the Criminal Court of Appeals, and it might be of interest to know who took the young gentleman upon the mountain and showed him all the world before him. Those responsible surely would not feel too badly at seeing their names front-paged throughout the country.

The man who started the textbook investigations in Oklahoma was then a high public official. He appointed the judge who called the Tulsa County Grand Jury. His tax return has been listed for investigation by order of the same judge. This smacks of camouflage and the laying of a smoke screen of fair play. This former high official also contracted with and appointed the attorney who filed a civil suit in the Federal court on behalf of the State of Oklahoma against a number of persons alleging them to be illegally involved in the State buying textbooks for the public schools of Oklahoma. I was not included in this suit. According to the press this attorney, appointed by the former high official, has appeared before the grand jury and consorted with the county attorney. Do such manipulations show fair play? I have a hunch what it is all about and believe it can be developed. I am not familiar with the textbook controversy other than by newspaper reports, but I know well I had nothing to do with it.

I think Mr. Gilmer and his coterie will live to regret the day he brought my name into this investigation. I do not like it and am going to do something about it.

EXTENSION OF REMARKS

Mr. FERNANDEZ. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record and include therein a couple of letters.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico [Mr. FERNANDEZ]?

There was no objection.

[The matter referred to appears in the Appendix.]

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record and to include therein a very splendid and powerful address recently made by the Honorable Sumner Welles, former Under Secretary of State, in New York City, an address that everybody should read and analyze. This will cost \$120, according to estimate of the Public Printer, but because of the unusual contribution made by Mr. Welles in this address, I am asking unanimous consent that it be included as a part of my remarks notwithstanding the cost.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. McCORMACK]?

There was no objection.

[The matter referred to appears in the Appendix.]

PERMISSION TO ADDRESS THE HOUSE

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that on Wednesday next, after disposition of business on the Speaker's desk and at the conclusion of any special orders heretofore made, I may address the House for 15 minutes. Next Wednesday being Navy Day, it is my intention to make some remarks on the heroism of the officers and men of the United States Navy during this war.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. McCORMACK]?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to Mr. MAAS (at the request of Mr. MARTIN of Massachusetts) until November 8, on account of official business.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 425. An act authorizing the Comptroller General of the United States to settle and adjust the claim of J. C. Munn;

S. 514. An act for the relief of Blanche H. Karsch, administratrix of the estate of Kate E. Hamilton;

S. 560. An act for the relief of Western Maryland Dairy, Inc.;

S. 694. An act for the relief of the W. G. Cornell Co.;

S. 841. An act for the relief of J. P. Woolsey;

S. 1293. An act for the relief of Cleo Pickrell; and

S. 1346. An act for the relief of the R. B. Walker Funeral Home.

ADJOURNMENT

Mr. McCORMACK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 16 minutes p. m.), pursuant to previous order, the House adjourned until Monday, October 25, 1943, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

Notice of postponement of hearing
(Tuesday, October 26, 1943)

The hearing which was scheduled for Tuesday, October 19, 1943, at 10 a. m., on the bill, H. R. 3334, relating to certain benefits to trainees in the Maritime Service, has been postponed until Tuesday, October 26, 1943, at 10 a. m.

COMMITTEE ON THE JUDICIARY (Wednesday, November 3, 1943)

Subcommittee No. 2 of the Committee on the Judiciary will conduct hearings on H. R. 786, a bill to amend section 40 of the United States Employees' Compensation Act, as amended (to include chiropractic practitioners), at 10:30 a. m. on Wednesday, November 3, 1943.

in room 346, Old House Office Building, Washington, D. C.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

869. A letter from the Archivist of the United States, transmitting report on records proposed for disposal in accordance with the provisions of the act approved July 7, 1943 (57 Stat. 380); to the Committee on the Disposition of Executive Papers.

870. A letter from the Acting Director, Office of Civilian Defense, transmitting copies of Quarterly Estimate of Personnel Requirements for the quarter ending December 31, 1943, covering regular operations of the Office of Civilian Defense and its protective property program; to the Committee on the Civil Service.

871. A letter from the Director, Office of War Information, transmitting Quarterly Estimate of Personnel Requirements for the Office of War Information covering the second quarter of the fiscal year 1944; to the Committee on the Civil Service.

872. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated August 11, 1943, submitting a report, together with accompanying papers and an illustration, on a review of report on the Arkansas River and tributaries, Conway County, levee districts Nos. 1, 2, 6, and 8, requested by resolutions of the Committee on Flood Control, House of Representatives, adopted on May 14 and November 12, 1941 (H. Doc. No. 341); to the Committee on Flood Control and ordered to be printed, with an illustration.

873. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated June 9, 1943, submitting a report, together with accompanying papers and illustrations, on a preliminary examination and survey of, and a review of report on, the Missouri River and tributaries at Kansas City, Mo., and Kans., authorized by the Flood Control Act approved on June 22, 1936, and requested by a resolution of the Committee on Commerce of the United States Senate adopted on April 29, 1941 (H. Doc. No. 342); to the Committee on Flood Control and ordered to be printed, with seven illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAY: Committee on Military Affairs. Interim report pursuant to House Resolution 30, Seventy-eighth Congress, first session. Resolution authorizing the Committee on Military Affairs and the Committee on Naval Affairs to study the progress of the national war effort; without amendment (Rept. No. 785). Referred to the Committee of the Whole House on the state of the Union.

Mr. COCHRAN: Committee on Accounts. House Resolution 308. Resolution to provide for the payment of expenses of conducting the investigation and study authorized by House Resolution 307; without amendment (Rept. No. 783). Referred to the House Calendar.

Mr. MAY: Committee on Military Affairs. S. 763. An act amending the Selective Training and Service Act of 1940, as amended, and for other purposes; with amendment (Rept. No. 787). Referred to the Committee of the Whole House on the state of the Union.

Mr. MURDOCK: Committee on Irrigation and Reclamation. H. R. 2580. A bill to grant

the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes; without amendment (Rept. No. 788). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GRANGER:

H. R. 3507. A bill to provide for the disposition of tribal funds of the Ute Indians, or any of the tribes or bands of Utes; to the Committee on Indian Affairs.

By Mr. O'BRIEN of New York:

H. R. 3508. A bill to authorize the Secretary of War to erect headstones over the graves of wives of soldiers who served in the Spanish-American War, World War No. 1, and World War No. 2; to the Committee on Military Affairs.

By Mr. PATMAN:

H. R. 3509. A bill to provide for mandatory loans to small business concerns upon termination of their war contracts; to the Committee on Banking and Currency.

By Mr. BROOKS:

H. R. 3510. A bill amending Public Law No. 625 of the Seventy-seventh Congress; to the Committee on Military Affairs.

By Mr. MAGNUSON:

H. J. Res. 176. Joint resolution designating November 15 of each year as John Hanson Day; to the Committee on the Judiciary.

By Mr. TOLAN:

H. J. Res. 177. Joint resolution requesting the President of the United States of America to proclaim Armed Services Honor Day and urging that it be properly observed throughout the Nation; to the Committee on the Judiciary.

By Mr. SCANLON:

H. Res. 329. Resolution to make a special order of business, H. R. 3055, a bill to repeal Public Law No. 89 of the Seventy-eighth Congress; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII:

Mr. McCORD introduced a bill (H. R. 3511) for the relief of the Lebanon Woolen Mills, Inc., which was referred to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3120. By Mr. COCHRAN: Petition of the Jones Grill, of Washington, D. C., and signed by 20 other citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3121. Also, petition of C. R. Rouse, of Washington, D. C., and signed by 39 other citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3122. Also, petition of R. C. Power, of Washington, D. C., and signed by 23 other citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3123. Also, petition of C. Ellis, of Washington, D. C., and signed by 88 other citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the

period of the war; to the Committee on the Judiciary.

3124. Also, petition of Robert B. McRaven, of Washington, D. C., and signed by 33 other citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3125. Also, petition of Rose L. Scholle and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3126. Also, petition of Walter Bartman and 22 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3127. Also, petition of Jacob L. Scholbe and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3128. Also, petition of Mrs. S. Kuhlmann and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3129. Also, petition of Mrs. Charles J. Liss and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3130. Also, petition of C. Elmer Kelle and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3131. Also, petition of A. Kimerle and 20 other St. Louis citizens, protesting against the passage of House bill 2082 which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3132. Also, petition of August S. Preusch and 20 other St. Louis citizens, protesting against the passage of House bill 2082, which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3133. Also, petition of Miss E. Glennon and 20 other St. Louis citizens, protesting against the passage of House bill 2082, which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3134. Also, petition of C. Scott and 20 other St. Louis citizens, protesting against the passage of House bill 2082, which seeks to enact prohibition for the period of the war; to the Committee on the Judiciary.

3135. By Mr. GAMBLE (by request): Petition signed by Thomas Kennedy and other citizens of New York, Connecticut, and New Jersey, opposing the enactment of House bill 2082; to the Committee on the Judiciary.

3136. Also (by request), petition signed by Edward J. Glick and other citizens of the State of New York, opposing the enactment of House bill 2082; to the Committee on the Judiciary.

3137. Also (by request), petition signed by William A. FitzGibbon and other residents of New York and New Jersey, opposing the enactment of House bill 2082; to the Committee on the Judiciary.

3138. Also (by request), petition signed by Gustav A. Tappert and other residents in Westchester County, N. Y., opposing enactment of House bill 2082; to the Committee on the Judiciary.

3139. Also (by request), petition signed by William A. Look, Sr., and other residents in New York and Connecticut, opposing the enactment of House bill 2082; to the Committee on the Judiciary.

3140. Also (by request), petition signed by James Donald Benson and other residents in New York and Connecticut, opposing the enactment of House bill 2082; to the Committee on the Judiciary.

3141. Also (by request), petition signed by Edwin T. Harman and other residents in the State of New York, opposing enactment of

BELLE FOURCHE RIVER COMPACT

OCTOBER 21, 1943.— Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. MURDOCK, from the Committee on Irrigation and Reclamation, submitted the following

R E P O R T

[To accompany H. R. 2580]

The Committee on Irrigation and Reclamation, to whom was referred the bill (H. R. 2580) granting the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill H. R. 2580 do pass.

All interested departments of government were invited to these hearings and to submit statements on this proposed legislation. There was no opposition from any of them to this bill.

Excerpts from their statements follow and letter from the Department of the Interior is attached hereto:

Hon. Harold L. Ickes, Secretary, Department of the Interior:

I recommend the enactment of this bill.

Hon. Claude R. Wickard, Secretary, Department of Agriculture:

This Department recommends passage of the bill.

Hon. Leland Olds, Chairman, Federal Power Commission:

We are in full sympathy with the use of this stream for the primary purpose of irrigation. For this reason we do not recommend disapproval or modification of the proposed bill.

Maj. Gen. E. Reybold, Chief of Engineers, War Department:

The river is not navigable and is not susceptible to improvement for navigation. Floods are comparatively infrequent.

Mr. Howard R. Stinson, of the Reclamation Bureau, who was appointed by the President as representative of the United States at the Belle Fourche River Compact negotiations, attended the hearings and reported favorably.

THE SECRETARY OF THE INTERIOR,
Washington, October 8, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

MY DEAR MR. WHITE: Pursuant to an informal arrangement made with your committee, I am submitting this report on H. R. 2580, a bill relating to the proposed Belle Fourche River compact.

I recommend the enactment of this bill.

This Department has an interest in the Belle Fourche River Basin and particularly in the problems in connection with the development, through irrigation, of the arable lands therein. Through the Bureau of Reclamation of this Department, the United States has made an investment in irrigation works in the basin, and investigations are being made by that Bureau with a view to effecting a greater utilization of the waters of the river within the basin. In fact, the desirability of a water compact between South Dakota and Wyoming became evident, in part, as a result of our studies. The extent of this Department's interest in the basin was recognized by Congress in the act of February 26, 1927 (44 Stat. 1247), authorizing the negotiation of a compact between these States and providing that the representative of the United States should be from the Department of the Interior.

Taking the Belle Fourche compact as a whole, I believe that it offers a sound solution of the water problems confronting South Dakota and Wyoming in the case of the Belle Fourche River. The proposed compact and related consenting legislation follow closely the recently approved Republican River compact, insofar as they deal with the possibility of conflicts between certain uses of water and rights established under State law, on the one hand, and the exercise of Federal jurisdiction in and to the waters of the river, on the other. I believe that the legislative device for the handling of these possible conflicts is also appropriate in this case, considering the characteristics and potentialities of the river. I wish to note, however, as did the President in approving the legislation consenting to the Republican River compact, that for streams of different characteristics and potentialities it may be found desirable to rephrase or to modify certain features of that legislative device or to treat the matter in a different manner. I am not sure, for example, that the formula should be applied to a stream in which multiple-purpose Federal developments represent a major interest in the use of the water, and believe that this question should be left open.

The effect which the consultation procedure, provided in article XIV B of the proposed compact and in section 2 (a) (2) of the bill, in connection with the exercise of Federal jurisdiction, is intended to have upon the exercise of Federal regulatory jurisdiction has given rise to some question. The compact and the bill would not alter the power of the Federal Government to act, although compensation must in some cases be paid for injuries to established water users. Had the provisions for consultation been stated somewhat differently or with greater particularity, however, the possibility of an interpretation which would hamper Federal agencies charged with the regulatory responsibility could have been avoided. My interpretation of these provisions, in any event, is that the consultation procedure would be requisite only in cases where the exercise of Federal regulatory jurisdiction as to the apportioned waters of the river would require the use of any part thereof in a manner that would preclude the use and development of that part for beneficial purposes within the basin. On the other hand, I understand that such regulatory jurisdiction could be exercised without regard to the consultation procedure in any case where the exercise would not have such a result. Since the prospect of hydroelectric power developments on the Belle Fourche River appears to be remote and only incidental to irrigation developments, the question appears not to be of great consequence in this case.

The provisions of article V of the proposed compact, whereby the compacting States agree to recognize existing rights to the use of water as of the date of the compact, are of interest to this Department in connection with the Belle Fourche project in South Dakota. This provision, I understand, is intended to remove an ambiguity as to the status and priority of project water rights arising out of the absence of water filings in Wyoming for the project.

The proposed compact also provides that storage and diversion works may be built in either State for the use of waters apportioned thereby on lands in the other State. This provision is of importance to this Department in connection with the possibilities of the development of additional storage for lands in South Dakota. The studies made by the Bureau of Reclamation indicate that the best site for such storage is in Wyoming. While it has not been determined as yet whether such an undertaking would be feasible, this provision would remove one of the obstacles heretofore existing to it. In this connection it will be noted, by reason of the provisions of article XIII, that, if such storage were built and owned by the United States, the provisions of the proposed compact for payments in lieu of taxes would not be applicable to the United States, its agencies, or its instrumentalities.

The Director of the Bureau of the Budget advises that this report would not be in conflict with the program of the President.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

○

78TH CONGRESS
1ST SESSION

H. R. 2580

[Report No. 788]

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1943

Mr. BARRETT introduced the following bill; which was referred to the Committee on Irrigation and Reclamation

OCTOBER 21, 1943

Committed to the Committee of the Whole House on the state of the Union
and ordered to be printed

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the consent of Congress is hereby given to a compact
4 authorized by the Act entitled "An Act granting the consent
5 of Congress to compacts or agreements between the States
6 of South Dakota and Wyoming with respect to the division
7 and apportionment of the waters of the Belle Fourche and
8 Cheyenne Rivers and other streams in which such States
9 are jointly interested", approved February 26, 1927 (44

1 Stat. 1247), signed by commissioners for the States of
2 South Dakota and Wyoming, on the 18th day of February
3 1943 and thereafter ratified by the act of the Legislature
4 of South Dakota entitled "An act ratifying and approving
5 a compact between the States of Wyoming and South
6 Dakota for use of the waters of the Belle Fourche River,
7 and declaring an emergency", approved March 4, 1943 and
8 the act of the Legislature of Wyoming entitled "An act to
9 provide for the ratification and approval of the Belle Fourche
10 River Compact", approved March 3, 1943, which compact
11 reads as follows:

12 BELLE FOURCHE RIVER COMPACT

13 The States of South Dakota and Wyoming, parties signa-
14 tory to this compact (hereinafter referred to as South Dakota
15 and Wyoming, respectively, or individually as a State, or
16 collectively as the States), have resolved to conclude a com-
17 pact as authorized under the Act of Congress of February
18 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotia-
19 tions participated in by the following named State Com-
20 missioners.

21 For South Dakota:

22 M. Q. Sharpe

23 G. W. Morsman

24 S. G. Mortimer

25 W. D. Buchholz

1 For Wyoming:

2 L. C. Bishop

3 Samuel McKean

4 L. H. Robinson

5 Mrs. E. E. McKean

6 and by Howard R. Stinson, appointed as the Representative
7 of the United States of America, have agreed upon the
8 following articles, to-wit:

9 ARTICLE I

10 A. The major purposes of this compact are to provide
11 for the most efficient use of the waters of the Belle Fourche
12 River Basin (hereinafter referred to as the Basin) for mul-
13 tiple purposes; to provide for an equitable division of such
14 waters; to remove all causes, present and future, which might
15 lead to controversies; to promote interstate comity; to rec-
16 ognize that the most efficient utilization of the waters within
17 the Basin is required for the full development of the Basin;
18 and to promote joint action by the States and the United
19 States in the efficient use of water and the control of floods.

20 B. The physical and other conditions peculiar to the
21 Basin constitute the basis for this compact; and none of the
22 States hereby, nor the Congress of the United States by its
23 consent, concedes that this compact establishes any general
24 principle or precedent with respect to any other interstate
25 stream.

1 C. Either State and all others using, claiming or in any
2 manner asserting any right to the use of the waters of the
3 Belle Fourche River under the authority of that State, shall
4 be subject to the terms of this compact.

5 ARTICLE II

6 As used in this compact:

7 A. The term "Belle Fourche River" shall mean and
8 include the Belle Fourche River and all its tributaries orig-
9 inating in Wyoming.

10 B. The term "Basin" shall mean that area in South
11 Dakota and Wyoming which is naturally drained by the
12 Belle Fourche River, and all its tributaries.

13 C. The term "beneficial use" is herein defined to be
14 that use by which the water supply of a drainage basin is
15 depleted when usefully employed by the activities of man,
16 and includes water lost by evaporation, and other natural
17 causes from streams, canals, ditches, irrigated areas, and
18 reservoirs.

19 D. Where the name of the State or the term "State" or
20 "States" is used, these shall be construed to include any
21 person or entity of any nature whatsoever using, claiming, or
22 in any manner asserting any right to the use of the waters of
23 the Belle Fourche River under the authority of that State.

24 ARTICLE III

25 It shall be the duty of the two States to administer this

1 compact through the official in each State who is now or may
2 hereafter be charged with the duty of administering the public
3 water supplies, and to collect and correlate through such
4 officials the data necessary for the proper administration of
5 the provisions of this compact. Such officials may, by unani-
6 mous action, adopt rules and regulations consistent with the
7 provisions of this compact.

8 The United States Geological Survey, or whatever Fed-
9 eral agency may succeed to the functions and duties of that
10 agency, insofar as this compact is concerned, shall collaborate
11 with the officials of the States charged with the administration
12 of this compact in the execution of the duty of such officials in
13 the collection, correlation, and publication of information
14 necessary for the proper administration of this compact.

15 ARTICLE IV

16 Each State shall itself or in conjunction with other re-
17 sponsible agencies cause to be established, maintained, and
18 operated such suitable water gaging stations as it finds neces-
19 sary to administer this compact.

20 ARTICLE V

21 A. Wyoming and South Dakota agree that the unappro-
22 priated waters of the Belle Fourche River as of the date of
23 this compact shall be allocated to each State as follows:

24 90% to South Dakota

25 10% to Wyoming;

1 Provided that allocations to Wyoming shall be exclusive of
2 the use of these waters for domestic and stock use, and
3 Wyoming shall be allowed unrestricted use for these pur-
4 poses, except that no reservoir for such use shall exceed 20
5 acre-feet in capacity. For storage of its allocated water,
6 Wyoming shall have the privilege of purchasing at cost
7 not to exceed 10% of the total storage capacity of any
8 reservoir or reservoirs constructed in Wyoming for irrigation
9 of lands in South Dakota, or may construct reservoirs
10 itself for the purpose of utilizing such water. Either State
11 may temporarily divert, or store for beneficial use, any
12 unused part of the above percentages allotted to the other,
13 but no continuing right shall be established thereby.

14 B. Rights to the use of the waters of the Belle Fourche
15 River, whether based on direct diversion or storage, are
16 hereby recognized as of the date of this compact to the
17 extent these rights are valid under the law of the State in
18 which the use is made, and shall remain unimpaired hereby.
19 These rights, together with the additional allocations made
20 under A of this Article, are agreed to be an equitable appor-
21 tionment between the States of the waters of the Basin.

22 C. The waters allocated under A of this Article and the
23 rights recognized under B of this Article are hereinafter re-
24 ferred to collectively as the apportioned water. For the
25 purposes of the administration of this compact and deter-

1 mining the apportioned water at any given date within a
2 given calendar year, there shall be taken the sum of:

3 (1) The quantity of water in acre-feet that passed the
4 Wyoming-South Dakota State line during the period from
5 January 1 of that year to that given date.

6 (2) The quantity of water in acre-feet in storage on
7 that date in all reservoirs built in Wyoming on the Belle
8 Fourche River subsequent to the date of this compact.

9 ARTICLE VI

10 Any person, entity, or State shall have the right to
11 acquire necessary property rights in another State by pur-
12 chase or through the exercise of the power of eminent domain
13 for the construction, operation and maintenance of storage
14 reservoirs and of appurtenant works, canals, and conduits
15 required for the enjoyment of the privileges granted by
16 Article V and Article VII A; provided, however, that the
17 grantees of such rights shall pay to the political subdivisions
18 of the State in which such works are located, each and every
19 year during which such rights are enjoyed for such pur-
20 poses, a sum of money equivalent to the average annual
21 amount of taxes assessed against the lands and improvements
22 thereon during the 10 years preceding the use of such lands
23 in reimbursement for the loss of taxes to said political sub-
24 division of the State.

1

ARTICLE VII

2

A. Either State shall have the right, by compliance with the laws of the other State, to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such State for the purpose of conserving and regulating the apportioned water of the other State; provided, that such right is subject to the rights of the other State to control, regulate, and use water apportioned to it.

10

B. Each claim hereafter initiated for storage or diversion of water in one State for use in another State shall be filed in the Office of the State Engineer of the State in which the water is to be stored or diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the Office of the State Engineer of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorse-

1 ments shall be placed on both the original and duplicate copies
2 of all such maps filed to the end that the records in both
3 States may be complete and identical.

4 C. Appropriations may hereafter be adjudicated in the
5 State in which the water is stored or diverted, and where a
6 portion or all of the lands irrigated are in the other State,
7 such adjudications shall be confirmed in the latter State by the
8 proper authority. Each adjudication is to conform with the
9 laws of the State where the water is stored or diverted and
10 shall be recorded in the county and State where the water is
11 used.

12 ARTICLE VIII

13 In case any reservoir is constructed in Wyoming, to be
14 used principally for irrigation of lands in South Dakota,
15 sufficient water not to exceed 10 cubic feet per second shall
16 be released at all times for stock water use.

17 ARTICLE IX

18 No reservoir hereafter built solely to utilize the water
19 allocated to Wyoming shall have a capacity in excess of 1,000
20 acre-feet.

21 ARTICLE X

22 The provisions of this compact shall remain in full force
23 and effect until amended by action of the Legislature of the
24 States and consented to and approved by the Congress of

1 the United States in the same manner as this compact is
2 required to be ratified to become effective.

3 ARTICLE XI

4 This compact may be terminated at any time by unani-
5 mous consent of the States, and upon such termination, all
6 rights then established hereunder or recognized hereby shall
7 continue to be recognized as valid by the States notwith-
8 standing the termination of the other provisions of the
9 compact.

10 ARTICLE XII

11 Nothing in this compact shall be construed to limit or
12 prevent either State from instituting or maintaining any
13 action or proceeding, legal or equitable, in any Federal court
14 or the United States Supreme Court for the protection of any
15 right under this compact or the enforcement of any of its
16 provisions.

17 ARTICLE XIII

18 Nothing in this compact shall be deemed:

19 A. To impair or affect any rights or powers of the
20 United States, its agencies, or instrumentalities, in and to
21 the use of the waters of the Belle Fourche River nor its
22 capacity to acquire rights in and to the use of said waters;

23 B. To subject any property of the United States, its
24 agencies, or instrumentalities to taxation by either State or
25 subdivision thereof, nor to create an obligation on the part

1 of the United States, its agencies, or instrumentalities, by
2 reason of the acquisition, construction or operation of any
3 property or works of whatsoever kind, to make any pay-
4 ments to any State or political subdivision thereof, State
5 agency, municipality, or entity whatsoever in reimbursement
6 for the loss of taxes;

7 C. To subject any property of the United States, its agen-
8 cies, or instrumentalities, to the laws of any State to an
9 extent other than the extent to which these laws would apply
10 without regard to the compact.

11 ARTICLE XIV

12 This compact shall become operative when approved by
13 the Legislature of each of the States, and when consented to
14 by the Congress of the United States by legislation provid-
15 ing, among other things, that:

16 A. Any beneficial uses hereafter made by the United
17 States, or those acting by or under its authority, within a
18 State, of the waters allocated by this compact, shall be within
19 the allocations hereinabove made for use in that State and
20 shall be taken into account in determining the extent of use
21 within that State.

22 B. The United States, or those acting by or under its
23 authority, in the exercise of rights or powers arising from
24 whatever jurisdiction the United States has in, over and to
25 the waters of the Belle Fourche River and all its tributaries,

1 shall recognize, to the extent consistent with the best utiliza-
2 tion of the waters for multiple purposes, that beneficial use of
3 the waters within the Basin is of paramount importance to
4 development of the Basin, and no exercise of such power or
5 right thereby that would interfere with the full beneficial use
6 of the waters shall be made except upon a determination, giv-
7 ing due consideration to the objectives of this compact and
8 after consultation with all interested Federal agencies and the
9 State officials charged with the administration of this compact,
10 that such exercise is in the interest of the best utilization of
11 such waters for multiple purpose.

12 C. The United States, or those acting by or under its
13 authority, will recognize any established use, for domestic and
14 irrigation purposes, of the apportioned waters which may be
15 impaired by the exercise of Federal jurisdiction in, over, and
16 to such waters; provided, that such use is being exercised
17 beneficially, is valid under the laws of the appropriate State
18 and in conformity with this compact at the time of the im-
19 pairment thereof, and was validly initiated under State law
20 prior to the initiation or authorization of the Federal program
21 or project which causes such impairment.

22

ARTICLE XV

23

Should a court of competent jurisdiction hold any part of

1 this compact to be contrary to the constitution of any State
2 or of the United States, all other severable provisions shall
3 continue in full force and effect.

4 In Witness Whereof the Commissioners have signed this
5 compact in triplicate original, one of which shall be filed in
6 the archives of the Department of State of the United States
7 of America and shall be deemed the authoritative original,
8 and of which a duly certified copy shall be forwarded to the
9 Governor of each of the States.

10 Done at the City of Cheyenne in the State of Wyoming,
11 this 18th day of February, in the year of Our Lord, One
12 Thousand Nine Hundred and Forty-three.

13 Commissioners for South Dakota

14 (Sgd) M. Q. Sharpe

15 M. Q. SHARPE

16 (Sgd) G. W. Morsman

17 G. W. MORSMAN

18 (Sgd) S. G. Mortimer

19 S. G. MORTIMER

20 (Sgd) W. D. Buchholz

21 W. D. BUCHHOLZ

1 Commissioners for Wyoming

2 (Sgd) L. C. Bishop

3 L. C. BISHOP

4 (Sgd) Samuel McKean

5 SAMUEL MCKEAN

6 (Sgd) L. H. Robinson

7 L. H. ROBINSON

8 (Sgd) Mrs. E. E. McKean

9 MRS. E. E. MCKEAN

10 I have participated in the negotiation of this compact
11 and intend to report favorably thereon to the Congress of
12 the United States.

13 (Sgd) Howard R. Stinson

14 HOWARD R. STINSON,

15 Representative of the United States of America.

16 SEC. 2. (a) In order that the conditions stated in ar-
17 ticle XIV of the compact hereby consented to shall be met
18 and that the compact shall be and continue to be operative,
19 the following provisions are enacted:

20 (1) Any beneficial uses hereafter made by the United
21 States, or those acting by or under its authority, within a
22 State, of the waters allocated by such compact, shall be
23 within the allocations made by such compact for use in that
24 State and shall be taken into account in determining the
25 extent of use within that State;

1 (2) The United States, or those acting by or under its
2 authority, in the exercise of rights or powers arising from
3 whatever jurisdiction the United States has in, over, and to
4 the waters of the Belle Fourche River and all its tributaries
5 shall recognize, to the extent consistent with the best utiliza-
6 tion of the waters for multiple purposes, that beneficial use
7 of the waters within the Basin is of paramount importance
8 to the development of the Basin; and no exercise of such
9 power or right thereby that would interfere with the full
10 beneficial use of the waters within the Basin shall be made
11 except upon a determination, giving due consideration to the
12 objectives of such compact and after consultation with all
13 interested Federal agencies and the State officials charged
14 with the administration of such compact, that such exercise
15 is in the interest of the best utilization of such waters for
16 multiple purposes;

17 (3) The United States, or those acting by or under its
18 authority, will recognize any established use, for domestic
19 and irrigation purposes, of the apportioned water which may
20 be impaired by the exercise of Federal jurisdiction in, over,
21 and to such water: *Provided*, That such use is being exer-
22 cised beneficially, is valid under the laws of the appropriate
23 State and in conformity with such compact at the time of the
24 impairment thereof, and was validly initiated under State

1 law prior to the initiation or authorization of the Federal
 2 program or project which causes such impairment.

3 (b) As used in this section, the following terms: “ben-
 4 eficial use”, “Basin”, and “apportioned water”, shall have
 5 the same meanings as those ascribed to them in the compact
 6 consented to by this Act.

Union Calendar No. 277

78TH CONGRESS
 1ST Session

H. R. 2580

[Report No. 788]

A BILL

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

By Mr. BARRETT

MAY 3, 1943

Referred to the Committee on Irrigation and Reclamation

OCTOBER 21, 1943

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed



when put to the test, so I would not want the statement to go in the RECORD that we concede that this will be the cost of this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York [Mr. COLE]?

There was no objection.

The estimate referred to follows:

(Estimate of cost on H. R. 3356, 78th Cong., "A bill to increase the service-connected disability rates of compensation or pension payable to veterans of World War No. 1 and World War No. 2 and veterans entitled to wartime rates based on service on or after September 16, 1940, for service-connected disabilities, and to increase the rates for widows and children under Public Law 484, 73d Cong., as amended, and to include widows and children of World War No. 2 veterans for benefits under the latter act," as reported by the Committee on World War Veterans' Legislation October 11, 1943, Rept. No. 749.)

ESTIMATED COST FIRST YEAR

Section 1, as amended, provides that the monthly amount of compensation or pension payable to veterans of World War No. 1 and World War No. 2, including veterans entitled to wartime rates under Public, 359, Seventy-seventh Congress, for service on or after September 16, 1940, for service-incurred disability, not including the special awards and allowances fixed by law, shall be increased by 15 percent.

It is estimated that this section would provide increases to approximately 329,100 veterans the first year at an additional cost of \$22,247,000.

Section 2 provides increases in monthly rates of compensation payable under Public Law No. 484, as amended. It would increase the widow's rate from \$30 to \$35, and the widow with 1 child, additional amount for the child to be increased from \$8 to \$10 per month (additional children increased from \$4 to \$5 per month); no widow but 1 child would be increased from \$15 to \$18 per month; no widow but 2 children increased from \$22 (equally divided) to \$27 (equally divided) per month; no widow but 3 children increased from \$30 (equally divided) to \$36 (equally divided) per month; and the amount for additional children would be increased from \$3 to \$4 per month for each additional child (the total amount to be equally divided).

It is estimated the widows and children of approximately 33,500 deceased veterans would be entitled to the increased rates the first year at a cost of \$2,526,000.

Section 3 provides the increases authorized by this bill shall be effective from the 1st day of the first month following the passage of this act.

Section 4 of this amended bill would extend the benefits of Public Law No. 484, as amended, to widows and children of persons who served during the period of the present war where death is not service connected but at time of death the veteran had a service-connected disability. Because the rate of deaths from other than service-connected disabilities would probably be small for veterans of this war who have been discharged from service and because in many of the cases that could otherwise qualify, the veteran does not leave an eligible beneficiary, it is thought the cost of this section would be small the first year. Therefore no estimate for the first year is submitted. However, there would be a materially increasing cost dependent upon the number of service-connected disabilities of this war.

The total estimated cost of this bill the first year will approximate \$24,773,000.

Mr. COLE of New York. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NAVY NURSE CORPS

The Clerk called the next bill, H. R. 2976, to grant military rank to certain members of the Navy Nurse Corps.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

TRANSPORTATION OF DEPENDENTS AND HOUSEHOLD EFFECTS OF PERSONNEL OF THE NAVY, MARINE CORPS, AND COAST GUARD

The Clerk called the next bill, S. 1336, to authorize the transportation of dependents and household effects of personnel of the Navy, Marine Corps, and Coast Guard under certain conditions, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That officers and enlisted men of the Navy, Marine Corps, and Coast Guard, and the reserve components thereof when on active duty, of grades entitling them to transportation of dependents and household effects on change of station (a) when on duty at places designated by the Secretary of the Navy as within zones from which their dependents should be evacuated for military reasons or for the purpose of relieving congestion in the vicinity of naval activities or where Government quarters for their dependents are not available; (b) or upon transfer or assignment of such officers and enlisted men to sea duty, as such duty may be defined by the Secretary of the Navy; (c) or upon transfer or assignment of such officers and enlisted men to duty at places where their dependents for military reasons are not permitted to join them or where Government quarters for their dependents are not available, may, upon application of such personnel or their dependents, be allowed, subject to such regulations as the Secretary of the Navy may prescribe, transportation for their dependents and household effects, including packing, crating, and unpacking thereof, from their stations or places of storage in the United States to any other points in the United States, and from such points to new stations in the United States to which such personnel may be subsequently ordered for duty, and at which their dependents are not restricted from joining them or Government quarters for their dependents are available.

SEC. 2. Whenever the Chief of Naval Personnel, Commandant of the Marine Corps, Commandant of the Coast Guard, or such subordinates as they may designate, certify that the personnel included in (b) and (c) of section 1 hereof have been transferred to sea duty or to duty at places beyond the continental limits of the United States where their dependents for military reasons are not permitted to join them, the wives of such personnel, or such other responsible persons as may be designated by the officials named above in this section, may execute such certificates as may be required and which are filed with, and relate to, vouchers in connection with the transportation of dependents or household effects: *Provided*, That in lieu of copies of orders of such personnel, the certificate above provided for shall constitute authority for such transportation of dependents, and household effects as may be authorized hereunder and any certificate or certification authorized by this act shall be final and con-

clusive upon the accounting officers of the Government: *And provided further*, That, under such regulations as the Secretary of the Navy may prescribe, claims for reimbursement may be submitted by and payments made to personnel concerned or their dependents for any authorized travel performed by dependents at their own expense.

SEC. 3. The Comptroller General of the United States is hereby authorized and directed to allow credit in the accounts of disbursing officers in cases where such dependents would have been entitled to transportation if the provisions of section 1 hereof had been in effect on the date of payment for otherwise proper payments heretofore made to transportation of dependents, or reimbursement therefor, under orders issued prior to the effective date of this act, to the extent of the commercial cost of transportation of the dependents from the old duty station to the new duty station. Such cost of transportation shall be computed from the last available published rates on the date the orders involved were issued.

SEC. 4. Transportation of household effects of naval and civilian personnel of the Naval Establishment, as now or hereafter authorized by law, may, under such regulations as the Secretary of the Navy shall prescribe, be by means of rail, water, or van, without regard to comparative costs.

SEC. 5. This act shall be effective as of December 7, 1941, and shall remain in effect for the duration of the present wars and for 6 months after the termination of such wars, or until such earlier time as the Congress by concurrent resolution or the President by proclamation may designate.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNITED STATES NAVAL ACADEMY

The Clerk called the next bill, S. 1354, to amend the act approved January 16, 1936, entitled "An act to provide for the retirement and retirement annuities of civilian members of the teaching staff at the United States Naval Academy and the Postgraduate School, United States Naval Academy."

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act to provide for the retirement and retirement annuities of civilian members of the teaching staff at the United States Naval Academy and the Postgraduate School, United States Naval Academy," approved January 16, 1936 (49 Stat. 1092; 34 U. S. C. 1073-1073e), is amended by inserting therein a new section numbered 4A, reading as follows:

"SEC. 4A. Each civilian member of the teaching staff who is hereafter retired on or after reaching the age of retirement set forth in section 3 of this act shall be paid a life annuity, terminable on his death, at the rate of the following total annual amount: The average annual basic salary, pay, or compensation received by such civilian teacher during any 5 consecutive years of allowable service at the option of such teacher, multiplied by the number of years of service, not exceeding 35 years, and divided by 70. The retirement annuity payable to each such retired teacher, under any annuity policy provided for by this act, or under the provisions of section 4 of this act, shall be counted as payable on account of the retirement annuity provided in this section 4A, and the Secretary of the Navy shall pay to each such retired teacher, from such appropriations as may be made for the purpose, such additional sums, if any, as will bring the total annual sum paid to such retired teacher to the total annual amount prescribed in this section 4A:

Provided, That nothing herein contained shall operate to reduce the retirement annuity which would have been payable to any such retired teacher if this section had not been enacted: *And provided further*, That no payments under this section shall be made to any member of said staffs who shall be entitled to retirement and retirement benefits under the provisions of the Civil Service Retirement Act of 1920, as amended, and shall elect, or shall have elected, to continue thereunder."

SEC. 2. Section 5 of the said act of January 16, 1936, is hereby amended by striking out the word "and" before the word "professors," and by striking out the period after said word "professors," and by adding after said word a comma, followed by the words "and senior professors."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BELLE FOURCHE RIVER COMPACT

The Clerk called the next bill, H. R. 2580, to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the consent of Congress is hereby given to a compact authorized by the act entitled "An act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested," approved February 26, 1927 (44 Stat. 1247), signed by commissioners for the States of South Dakota and Wyoming, on the 18th day of February 1943, and thereafter ratified by the act of the Legislature of South Dakota entitled "An act ratifying and approving a compact between the States of Wyoming and South Dakota for use of the waters of the Belle Fourche River, and declaring an emergency," approved March 4, 1943, and the act of the Legislature of Wyoming entitled "An act to provide for the ratification and approval of the Belle Fourche River compact," approved March 3, 1943, which compact reads as follows:

"BELLE FOURCHE RIVER COMPACT

"The States of South Dakota and Wyoming, parties signatory to this compact (hereinafter referred to as South Dakota and Wyoming, respectively, or individually as a State, or collectively as the States), have resolved to conclude a compact as authorized under the act of Congress of February 26, 1927 (ch. 216, 44 Stat. 1247), and after negotiations participated in by the following-named State commissioners:

"For South Dakota: M. Q. Sharpe, G. W. Morsman, S. G. Mortimer, W. D. Buchholz.

"For Wyoming: L. C. Bishop, Samuel McKean, L. H. Robinson, Mrs. E. E. McKean, and by Howard R. Stinson, appointed as the representative of the United States of America, have agreed upon the following articles, "to wit:

"ARTICLE I

"A. The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the Basin) for multiple purposes; to provide for an equitable division of such waters; to remove all

causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is required for the full development of the Basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

"B. The physical and other conditions peculiar to the Basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

"C. Either State and all others using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State, shall be subject to the terms of this compact.

"ARTICLE II

"As used in this compact—

"A. The term 'Belle Fourche River' shall mean and include the Belle Fourche River and all its tributaries originating in Wyoming.

"B. The term 'Basin' shall mean that area in South Dakota and Wyoming which is naturally drained by the Belle Fourche River, and all its tributaries.

"C. The term 'beneficial use' is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

"D. Where the name of the State or the term 'State' or 'States' is used, these shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State.

"ARTICLE III

"It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

"The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

"ARTICLE IV

"Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water gaging stations as it finds necessary to administer this compact.

"ARTICLE V

"A. Wyoming and South Dakota agree that the unappropriated waters of the Belle Fourche River as of the date of this compact shall be allocated to each State as follows:

"Ninety percent to South Dakota, 10 percent to Wyoming: *Provided*, That allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity. For storage of its allocated water, Wyoming shall have the privilege of purchasing at cost not to exceed 10 percent of the total storage capacity of any reservoir or

reservoirs constructed in Wyoming for irrigation of lands in South Dakota, or may construct reservoirs itself for the purpose of utilizing such water. Either State may temporarily divert, or store for beneficial use, any unused part of the above percentages allotted to the other, but no continuing right shall be established thereby.

"B. Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under A of this article, are agreed to be an equitable apportionment between the States of the waters of the basin.

"C. The waters allocated under A of this article and the rights recognized under B of this article are hereinafter referred to collectively as the apportioned water. For the purposes of the administration of this compact and determining the apportioned water at any given date within a given calendar year, there shall be taken the sum of:

"(1) The quantity of water in acre-feet that passed the Wyoming-South Dakota State line during the period from January 1 of that year to that given date.

"(2) The quantity of water in acre-feet in storage on that date in all reservoirs built in Wyoming on the Belle Fourche River subsequent to the date of this compact.

"ARTICLE VI

"Any person, entity, or State shall have the right to acquire necessary property rights in another State, by purchase or through the exercise of the power of eminent domain for the construction, operation, and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by article V and article VII A: *Provided, however*, That the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes assessed against the lands and improvements thereon during the 10 years preceding the use of such lands in reimbursement for the loss of taxes to said political subdivision of the State.

"ARTICLE VII

"A. Either State shall have the right, by compliance with the laws of the other State, to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such State for the purpose of conserving and regulating the apportioned water of the other State: *Provided*, That such right is subject to the rights of the other State to control, regulate, and use water apportioned to it.

"B. Each claim hereafter initiated for storage or diversion of water in one State for use in another State shall be filed in the office of the State engineer of the State in which the water is to be stored or diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the office of the State engineer of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not in-

dicating a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed to the end that the records in both States may be complete and identical.

"C. Appropriations may hereafter be adjudicated in the State in which the water is stored or diverted, and where a portion or all of the lands irrigated are in the other State, such adjudications shall be confirmed in the latter State by the proper authority. Each adjudication is to conform with the laws of the State where the water is stored or diverted and shall be recorded in the county and State where the water is used.

"ARTICLE VIII

"In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

"ARTICLE IX

"No reservoir hereafter built solely to utilize the water allocated to Wyoming shall have a capacity in excess of 1,000 acre-feet.

"ARTICLE X

"The provisions of this compact shall remain in full force and effect until amended by action of the legislatures of the States and consented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified to become effective.

"ARTICLE XI

"This compact may be terminated at any time by unanimous consent of the States, and upon such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the States notwithstanding the termination of the other provisions of the compact.

"ARTICLE XII

"Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal court or the United States Supreme Court for the protection of any right under this compact or the enforcement of any of its provisions.

"ARTICLE XIII

"Nothing in this compact shall be deemed:
"A. To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Belle Fourche River nor its capacity to acquire rights in and to the use of said waters;

"B. To subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

"C. To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the compact.

"ARTICLE XIV

"This compact shall become operative when approved by the legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that:

"A. Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be within the allocations hereinabove made for use in that State and shall be taken into account

in determining the extent of use within that State.

"B. The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Belle Fourche River and all its tributaries, shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the basin is of paramount importance to development of the basin, and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters shall be made, except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested Federal agencies and the State officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purpose.

"C. The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned waters which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

"ARTICLE XV

"Should a court of competent jurisdiction hold any part of this compact to be contrary to the constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

"In witness whereof the commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

"Done at the city of Cheyenne in the State of Wyoming, this 18th day of February, in the year of our Lord, 1943.

"Commissioners for South Dakota:

"M. Q. SHARPE.

"G. W. MORSMAN.

"S. G. MORTIMER.

"W. D. BUCHHOLZ.

"Commissioners for Wyoming:

"L. C. BISHOP.

"SAMUEL MCKEAN.

"L. H. ROBINSON.

"Mrs. E. E. MCKEAN.

"I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

"HOWARD R. STINSON,

"Representative of the United States of America."

SEC. 2. (a) In order that the conditions stated in article XIV of the compact hereby consented to shall be met and that the compact shall be and continue to be operative, the following provisions are enacted:

(1) Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by such compact, shall be within the allocations made by such compact for use in that State and shall be taken into account in determining the extent of use within that State;

(2) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Belle Fourche River and all its tributaries shall recognize, to the ex-

tent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the basin is of paramount importance to the development of the basin; and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters within the basin shall be made except when a determination, giving due consideration to the objectives of such compact and after consultation with all interested Federal agencies and the State officials charged with the administration of such compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes;

(3) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned water which may be impaired by the exercise of Federal jurisdiction in, over, and to such water: *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with such compact at the time of the impairment thereof and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

(b) As used in this section, the following terms: "beneficial use," "basin," and "apportioned water," shall have the same meanings as those ascribed to them in the compact consented to by this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BARRETT. Mr. Speaker, I ask unanimous consent to extend my own remarks at this point in the Record on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. BARRETT. Mr. Speaker, the proposed compact provides for the division of the water supply of the Belle Fourche River between the States of Wyoming and South Dakota. The drainage basin of this river comprises an area of 7,350 square miles in northeastern Wyoming and western South Dakota. The main purpose of the compact is to make an equitable division of the waters of this basin for irrigation purposes and to provide the basis for the development of additional water storage in Wyoming. The compact will materially aid the development of the Belle Fourche project in South Dakota, inasmuch as it will remove any question as to the status of project water rights arising out of the absence of water filings in my State for this project. It was originally contemplated to irrigate 76,000 acres on this project, but it has been impossible to provide water for more than 40,000 acres. Under the terms of the compact all valid water rights in Wyoming are recognized and people of Wyoming are authorized to make unrestricted use of the water for stock and domestic use. Up to 10 second-feet of water in the Belle Fourche below any reservoir to be constructed may be used for stock water in compact. Furthermore, Wyoming is assured the right to store and use up to 10 percent of all the water that falls in Wyoming on this watershed over and above presently appropriated water. This compact was ratified unanimously by the Legislature

of Wyoming and with only one dissenting vote in the Legislature of South Dakota. The legislation has been approved by the Departments of the Interior, Agriculture, and War, and the Federal Power Commission has raised no objection to the bill.

Mr. CASE. Mr. Speaker, I ask unanimous consent to extend my own remarks at this point in the RECORD on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. CASE. Mr. Speaker, H. R. 2580 is a bill to protect the interests of the United States Government, the State of Wyoming, and the State of South Dakota. It gives the approval of the Congress to a pact already approved by the State Legislatures of Wyoming and South Dakota for a division of the waters of the Belle Fourche River.

The bill recognizes and confirms existing water appropriations. It establishes permanent stock-water rights for stockmen in Wyoming. It then provides for a division of the unused waters that will permit irrigation of all of the good irrigable lands that can be reached below a feasible dam site in Wyoming and that will provide a supplemental water supply for the existing Belle Fourche project in South Dakota.

The Federal Government has an investment of many millions of dollars in the Belle Fourche project. Additional water is needed to stabilize the development and settlement of the project. The reservoir which now stores water for the project is an off-stream reservoir and the inlet canal cannot carry enough volume to save all the floodwater in times of a high flood. Eventually it is hoped that a storage reservoir can be constructed in Wyoming, farther upstream, that will make possible irrigation of available lands in Wyoming and also provide some supplemental water for the downstream project in South Dakota.

The bill, H. R. 2580, was introduced by my able colleague, the gentleman from Wyoming [Mr. BARRETT] to give effect to a compact entered into by representatives of the Federal Government and the States of Wyoming and South Dakota. Already, the compact has been approved by the State legislatures unanimously, and the favorable action of the House today will be greatly appreciated by the people and water users in the States concerned.

RETURN TO PRIVATE OWNERSHIP OF CERTAIN VESSELS

The Clerk called the next bill, H. R. 3261, to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of 1,000 gross tons or less, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act to authorize the return to private ownership of certain vessels formerly used or suitable for use in the fisheries or industries related thereto," approved April 29, 1943 (Public Law 44, 78th Cong., 57 Stat. 69), is amended to read as follows: "That any vessel

formerly used or suitable for use in the fisheries or industries related thereto, any vessel of 1,000 gross tons (determined in accordance with the provisions of sec. 77 of title 46 of the United States Code) or less, and any vessel employed on the Great Lakes during the year preceding its acquisition by the United States, the title to which has been or may hereafter be acquired by the United States through purchase or requisition, may be returned to private ownership in accordance with the provisions of this act.

"Sec. 2. Every such vessel shall, upon determination by the department or agency having possession thereof that the vessel is no longer needed or can be spared by such department or agency without detriment to its service, be made available to the Administrator of the War Shipping Administration (hereinafter referred to as the Administrator), who shall notify the owner from whom such vessel was purchased or requisitioned that the vessel may be returned to such owner upon repayment to the United States of the compensation paid therefor less such allowances as the Administrator may deem reasonable (1) to cover the cost of such reconditioning as would be necessary to restore the vessel to a condition at least as good as when acquired by the United States (ordinary wear and tear excepted), and (2) to compensate such owner for the use of the vessel by the United States, and upon compliance with such other terms and conditions as the Administrator may prescribe. The determination of such allowances by the Administrator shall be final, notwithstanding any other provision of law.

"Sec. 3. If any such owner shall fail, within a reasonable time after notice (which time shall be specified in the notice but may be extended by the Administrator), to make arrangements satisfactory to the Administrator for such return of the vessel or shall expressly waive the right thereto, the Administrator may advertise the vessel for sale upon competitive sealed bids subject to such terms and conditions as the Administrator may prescribe. That the Administrator may reject any bid which does not equal the purchase price or compensation paid or payable by the United States for such vessel less a reasonable allowance to cover the cost of reconditioning as hereinabove defined.

"Sec. 4. The Administrator may withhold from the funds received for the return or sale of any such vessel the expenses incurred by him in such return or sale, and shall pay over the balance of such receipts to the department or agency by which such vessel was made available."

With the following committee amendments:

Page 2, line 5, after the word "requisition", insert "except any vessel 17 years of age or older traded in under the provisions of section 510, Merchant Marine Act, 1936, as amended, or any other provision of law."

Page 2, line 19, strike out "would be" and insert in lieu thereof "the Administrator after consultation with the owner deems."

Page 2, line 20, strike out the words "a condition" and insert the words "condition and utility."

Page 3, line 3, after the word "owner", insert the words "to whom compensation has been paid or a tender of compensation has been made."

Page 3, line 10, insert after the word "prescribe" a comma and the words: "including in the case of any vessel used in commercial fisheries or industries related thereto immediately prior to the acquisition of such vessel by the United States, a requirement that the vessel will not be used for a period of 2 years from date of sale, other than in the commercial fisheries or industries related thereto."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SEQUOIA NATIONAL PARK

The Clerk called the bill (H. R. 2641) to authorize the acquisition by exchange of certain lands for addition to the Sequoia National Park.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized, in his discretion, to accept title to lands and interests in lands near the entrance to the Sequoia National Park, subject to existing easements for public highways and public utilities, within the following described tracts:

Tract A. A portion of tract 37, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, Calif., comprising approximately 2 acres.

Tract B. A portion of the east half of the northeast quarter of section 4, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, Calif., comprising approximately 38 acres.

Tract C. A portion of the south half of tract 37, township 17 south, range 29 east, Mount Diablo meridian, Tulare County, Calif., comprising approximately sixty one-hundredths acre.

The owners of the lands to be conveyed to the United States, before any exchange is effective, shall furnish to the Secretary of the Interior evidence satisfactory to him of title to such lands. Such property shall become a part of the Sequoia National Park upon the acceptance of title thereto by the Secretary, and shall thereafter be subject to all laws and regulations applicable to the park.

Sec. 2. That in exchange for the conveyance to the United States of tract A, as provided in section 1 of this act, the Secretary is authorized, in his discretion, to patent to the owner of tract A, subject to such terms and conditions as the Secretary may deem necessary, certain lands of approximately equal value described as follows:

Tract D. A portion of the southeast quarter of section 33, township 16 south, range 29, east, Mount Diablo meridian, Tulare County, Calif., comprising approximately two and fifty one-hundredths acres.

In exchange for the conveyance of the United States of tracts B and C, as provided in section 1 of this act, the Secretary is authorized to patent, in a similar manner, to the owner of tracts B and C certain lands of approximately equal value described as follows:

Tract E. The southwest quarter of the northwest quarter of section 4, which shall be subject to section 24 of the Federal Power Act (16 U. S. C., sec. 818); the south half of the northeast quarter of section 5; and approximately 68 acres of the north half of the southeast quarter of section 5, which shall not include the surveyed 200-foot strip as shown on map D of exhibit K entitled "Detailed Map of Kaweah Project of the Southern California Edison Co., Ltd.," and filed in the office of the Federal Power Commission on December 12, 1923; all of said lands in tract E being situated in township 17 south, range 29 east, Mount Diablo meridian, comprising approximately 188 acres.

Sec. 3. Nothing in this act shall be construed to alter or affect in any manner the provisions, or extend the term, of the permit heretofore granted to the Southern California Edison Co., and predecessors thereof for the use of lands in the Sequoia National Park for electric power development purposes, or

The resolution (S. Res. 207) was referred to the Committee on Agriculture and Forestry, as follows:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete study and investigation with respect to Federal regulations governing the distribution and sale of meat, poultry, and dairy products, with a view to ascertaining the names and official positions of persons responsible for the chaotic conditions presently existing in the meat, poultry, and dairy industries, and to report to the Senate at the earliest practicable date the results of such study and investigation, together with such recommendations as it may deem desirable.

For the purpose of this investigation, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-eighth Congress, to employ such clerical and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed ———, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

REHABILITATION OF AMERICA'S PHYSICALLY HANDICAPPED CITIZENS

Mr. WILEY. Mr. President, on the 25th day of October I asked permission to have inserted in the Appendix of the RECORD an address delivered by the senior Senator from Pennsylvania [Mr. DAVIS]. At that time I had also intended to have inserted the response, by Chester C. Haddan, president of the Association of Limb Manufacturers of America. I ask unanimous consent now that in the permanent RECORD Mr. Haddan's address, which was in response to that delivered by our colleague the senior Senator from Pennsylvania [Mr. DAVIS], be inserted immediately following the address by our colleague.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

REORGANIZATION OF CONGRESSIONAL PROCEDURE

Mr. MALONEY. Mr. President, I ask to have printed in the body of the RECORD an editorial from the Hartford Courant of November 12 entitled "To Streamline Congress," and I also ask that there be printed following this editorial another from the Hartford Times of November 12, entitled "To Study Congress." Both these editorials have reference to Senate concurrent resolution 23, which I submitted, and which was referred to the Committee on Rules.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Hartford Courant of November 12, 1943]

TO STREAMLINE CONGRESS

It is earnestly to be hoped that a constructive reorganization of congressional procedure will result from the proposal of Senator MALONEY, of Connecticut, and Rep-

resentative MONRONEY, of Oklahoma, asking for a joint bipartisan committee to "make a full and complete study * * * enabling it (Congress) better to meet its responsibilities under the Constitution." The impatience of the public with the lawmakers, we suspect, is based not so much on hostility to our representative system as on dissatisfaction with the ineffectiveness of Congress because of its archaic organization. It is within the power of Congress to remedy that situation.

This is by no means a new problem. Woodrow Wilson, in his Constitutional Government, termed the 47 House and 33 Senate standing committees "eighty little legislatures, an odd device of disintegration." It is obvious that committee consideration of legislation is necessary, but the multiplication of committees has resulted in a scattering of responsibility and the advancement of mediocre men to chairmanships. This last condition is aggravated by the seniority rule, which ought to be discarded. It might be well, also, to consider establishing joint committees so far as practicable. For example, the separate hearings by the committees on Military Affairs place a double burden upon witnesses appearing for or against any given measure. Much time is lost. Were the number of committees reduced, it might be possible to secure more adequate staffs for them.

The observation by Richard L. Strout, writing for the Christian Science Monitor on the conditions within Congress is poignant and timely: "Lacking strong leadership Members aline themselves with economic blocs; act as messenger boys for constituents rather than national lawmakers. They are Uncle Sam's bellboys. Reform proposals generally begin with reducing the number of committees. With the number cut to 8 or 10, it would be easy for the chairman to form a legislative cabinet. Actually, a more efficient Congress would strengthen the legislature in its eternal contest with the executive."

[From the Hartford Times of November 12, 1943]

TO STUDY CONGRESS

Senator MALONEY and Representative MONRONEY, by introducing identical resolutions in the Senate and House, calling for appointment of a committee to study the operations of Congress and its relationship with other branches of the Government, as well as to make a study of the remuneration of employees of committees and of the relationships between committees, have given the two Houses an opportunity to bring about improvements.

One suspects that without such a study it may in future be difficult for Congress to find suitable employees, and for committees to find acceptable secretaries and other workers. This impression is strengthened by the fact that a study of congressional employment specifically is called for.

As to more important matters, such as the operations of Congress, there is much that can be gained by a thorough study, but whether any real improvement can be brought about is another matter. Congressmen who wield extraordinary power through committees, such as the Dies committee and the House Committee on Insular Affairs, both of which have assumed to veto the employment of decent citizens in various departments of the Government, will be loath to relinquish any of their powers if that should be regarded as necessary.

In recent years there has been plenty of criticism of Congress, which has been put aside for the duration of the war. After the armistice is signed there will be a renewal of the criticism, much of which may be unjustified but which, nevertheless, it is the privilege of the public to make.

Important as it may be to improve the operations of the House and Senate to the end that there may be better government, it is even more important that the relationships between the public and Congress be as well understood as those between Members of the Congress. The Constitution is clear on the duties of the Congress, and whenever there is dispute as to whether the Constitution has been overstepped the courts are available to remove any doubts. The all-important thing, it will seem to some, is to establish public confidence that the Congress truly represents all the people, regardless of race, creed, economic condition, or political affiliation.

ADDRESS BY SENATOR PEPPER AT HALIFAX, NOVA SCOTIA

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an address delivered by him at Halifax, Nova Scotia, March 21, 1942, in connection with the War-bond drive, which appears in the Appendix.]

ADDRESS TO NATIONAL GRANGE BY SENATOR AIKEN

[Mr. THOMAS of Idaho asked and obtained leave to have printed in the RECORD an address delivered November 13, 1943, by Senator Aiken at Grand Rapids, Mich., before the National Grange, which appears in the Appendix.]

HOUSING AND OUR POST-WAR PLANS—ADDRESS BY SENATOR TAFT

[Mr. TAFT asked and obtained leave to have printed in the RECORD an address on the subject Housing and Our Post-war Plans, delivered by him to the Better Housing League of Cincinnati, Ohio, October 30, 1943, which appears in the Appendix.]

ADDRESS BY EMMA GUFFEY MILLER ON 128TH ANNIVERSARY OF THE BIRTH OF ELIZABETH CADY STANTON

[Mr. KILGORE asked and obtained leave to have printed in the RECORD the address delivered by Mrs. Emma Guffey Miller in the crypt of the Capitol on the one hundred and twenty-eighth anniversary of the birth of Elizabeth Cady Stanton, November 12, 1943, which appears in the Appendix.]

CURRENT FARM PROBLEMS AND TRENDS—ADDRESS BY M. W. THATCHER

[Mr. JOHNSON of Colorado asked and obtained leave to have printed in the RECORD an address delivered by M. W. Thatcher, general manager, Farmers Union Grain Terminal Association, before the Montana Farmers Union Annual Convention, October 28, 1943, which appears in the Appendix.]

CIVIL WAR IN YUGOSLAVIA

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD two newspaper articles, one by William Philip Simms, published in the Washington Daily News, and the other by Ervin Acel, published in the New York News of October 30, 1943, dealing with the civil war in Yugoslavia, which appear in the Appendix.]

DISTURBANCES IN TULE LAKE RELOCATION CENTER

[Mr. MCFARLAND asked and obtained leave to have printed in the RECORD an editorial entitled "Tule Lake Disturbance," published in the Douglas (Ariz.) Daily Dispatch of November 5, 1943, which appears in the Appendix.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 321. An act to facilitate and simplify collection procedure in the Department of the Interior;

S. 364. An act to authorize the Secretary of the Interior to settle certain claims;

S. 1336. An act to authorize the transportation of dependents and household effects of personnel of the Navy, Marine Corps, and Coast Guard under certain conditions, and for other purposes; and

S. 1354. An act to amend the act approved January 16, 1936, entitled "An act to provide for the retirement and retirement annuities of civilian members of the teaching staff at the United States Naval Academy and the Postgraduate School, United States Naval Academy."

The message also announced that the House had passed the bill (S. 630) to amend section 107 of the Judicial Code, as amended, to change the terms of the District Court for the Middle District of Tennessee, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the joint resolution (S. J. Res. 47) providing for the appointment of a National Agricultural Jefferson Bicentenary Committee to carry out under the general direction of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson appropriate exercises and activities in recognition of the services and contributions of Thomas Jefferson to the farmers and the agriculture of the Nation, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2188) to amend the act providing for the payment of allowance on death of officer or enlisted man to widow, or person designated, and for other purposes.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 2580. An act to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes;

H. R. 2641. An act to authorize the acquisition by exchange of certain lands for addition to the Sequoia National Park;

H. R. 3236. An act to provide aid to dependent children in the District of Columbia;

H. R. 3261. An act to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of 1,000 gross tons or less, and for other purposes;

H. R. 3408. An act to amend chapter 7 of the Criminal Code; and

H. R. 3428. An act to amend sections 6, 7, and 8 of the act entitled "An act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes," approved October 20, 1914 (38 Stat. 741, 743; 48 U. S. C., secs. 440, 441, 442).

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H. R. 2580. An act to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes; to the Committee on Irrigation and Reclamation.

H. R. 3236. An act to provide aid to dependent children in the District of Columbia, to the Committee on the District of Columbia.

H. R. 3261. An act to amend the act of April 29, 1943, to authorize the return to private ownership of Great Lakes vessels and vessels of 1,000 gross tons or less, and for other purposes; to the Committee on Commerce.

H. R. 3408. An act to amend chapter 7 of the Criminal Code; to the Committee on the Judiciary.

H. R. 2641. An act to authorize the acquisition by exchange of certain lands for addition to the Sequoia National Park; and

H. R. 3428. An act to amend sections 6, 7, and 8 of the act entitled "An act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes," approved October 20, 1914 (38 Stat. 741, 743; 48 U. S. C., secs. 440, 441, 442); to the Committee on Public Lands and Surveys.

TERMS OF DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 630) to amend section 107 of the Judicial Code, as amended, to change the terms of the District Court for the Middle District of Tennessee, which was, on page 1, line 3, to strike out "July 1, 1943" and insert "January 1, 1944."

Mr. STEWART. Mr. President, this bill passed the Senate on June 15 last, providing merely for the changing of the date of holding terms of the District Court for the Middle District of Tennessee. As passed by the Senate, the bill provided that it should take effect the 1st day of July, 1943. Because we were unable to get the bill through the House before the day of adjournment—in fact, it passed the House only yesterday—it was necessary for the House to amend the bill by changing the date from July 1, 1943, to January 1, 1944. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PROMOTION OF GOVERNMENT BOND SALES BY NEWSPAPER ADVERTISING

The Senate resumed the consideration of the bill (S. 1457) to aid in the stabilization program and the war effort by paid newspaper advertising in connection with the sale of United States bonds, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the first amendment of the committee, on page 2, line 12, after the word "That", to strike out "not less than."

Mr. DANAHER. Mr. President, in the course of the hearings on the pending bill many very earnest gentlemen appeared as witnesses in behalf of the measure. I caused to be printed in the RECORD a resolution which had been adopted by the Connecticut Editorial Association, when members of the newspaper editors and publishers group who comprise that association met on July

24 of this year. At that time they had before them the original so-called Bankhead bill, a revised version of which, now known as Senate bill 1457, is before the Senate.

At that time it became apparent that members of the Connecticut Association felt that if the United States Government had something to sell and intended to sell it after the manner of some big business corporations, it should be required to pay for the advertising needed to stimulate the sale. Members of the association very properly, it seemed to me, felt that there should be some declaration of principle, some established basis, upon which the Government would operate in this field.

They, of course, thought that the matter could be so handled that advertising would be allotted upon a net paid circulation basis; that it would be placed in the hands of private agencies for distribution among the advertising media to which recourse might be had, after the manner of big business, such as General Motors, to which reference was made many times in the course of the hearings, or any other business, for that matter, which utilizes all known media which are capable of producing results.

They also felt that it was within the bounds of possibility that there could be established some committee or some group who would make certain that the advertising copy would not contain material which could be used to partisan political advantage. In other words, they felt that the funds of all the people, derived from taxation, should not be utilized to gain any political or partisan advantage, and at the same time that all the safeguards commonly followed by business would be available, and all business practices executed in the course of the administration of the program.

When we held hearings on the bill it developed that it did not follow that procedure, that, quite to the contrary, this is a very different measure from what many of those who originally favored the principle expected and hoped it would be.

For one thing, it developed that the Secretary of the Treasury at this minute has all the authority he needs. He has the appropriation. He writes the copy. He distributes his advertising matter where, in his judgment, he can get results.

It developed in the course of the testimony, as the hearings will reveal, that there would be approximately \$15,000,000 available under this bill to be divided equally, Mr. President, among some 10,000 weeklies, bi-weeklies, and other publications of the generic description appearing on page 2 of the bill, and published in communities having 10,000 population or less, which would approximate \$1,500 a newspaper per annum, to be distributed out of the Treasury without regard for the purchasing power of the community in which the newspaper is circulated, and without regard for the advertising value of the particular medium.

Moreover, the bill is limited solely to newspapers of a character which is described on page 2. There is no provision

78TH CONGRESS
1ST SESSION

H. R. 2580

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16 (legislative day, NOVEMBER 12), 1943

Read twice and referred to the Committee on Irrigation and Reclamation

AN ACT

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the consent of Congress is hereby given to a compact
4 authorized by the Act entitled "An Act granting the consent
5 of Congress to compacts or agreements between the States
6 of South Dakota and Wyoming with respect to the division
7 and apportionment of the waters of the Belle Fourche and
8 Cheyenne Rivers and other streams in which such States
9 are jointly interested", approved February 26, 1927 (44

1 Stat. 1247), signed by commissioners for the States of
 2 South Dakota and Wyoming, on the 18th day of February
 3 1943 and thereafter ratified by the act of the Legislature
 4 of South Dakota entitled "An act ratifying and approving
 5 a compact between the States of Wyoming and South
 6 Dakota for use of the waters of the Belle Fourche River,
 7 and declaring an emergency", approved March 4, 1943 and
 8 the act of the Legislature of Wyoming entitled "An act to
 9 provide for the ratification and approval of the Belle Fourche
 10 River Compact", approved March 3, 1943, which compact
 11 reads as follows:

12 **BELLE FOURCHE RIVER COMPACT**

13 The States of South Dakota and Wyoming, parties signa-
 14 tory to this compact (hereinafter referred to as South Dakota
 15 and Wyoming, respectively, or individually as a State, or
 16 collectively as the States), have resolved to conclude a com-
 17 pact as authorized under the Act of Congress of February
 18 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotia-
 19 tions participated in by the following named State Com-
 20 missioners.

21 For South Dakota:

22	M. Q. Sharpe
23	G. W. Morsman
24	S. G. Mortimer
25	W. D. Buchholz

1 For Wyoming:

2 L. C. Bishop

3 Samuel McKean

4 L. H. Robinson

5 Mrs. E. E. McKean

6 and by Howard R. Stinson, appointed as the Representative
7 of the United States of America, have agreed upon the
8 following articles, to-wit:

9 ARTICLE I

10 A. The major purposes of this compact are to provide
11 for the most efficient use of the waters of the Belle Fourche
12 River Basin (hereinafter referred to as the Basin) for mul-
13 tiple purposes; to provide for an equitable division of such
14 waters; to remove all causes, present and future, which might
15 lead to controversies; to promote interstate comity; to rec-
16 ognize that the most efficient utilization of the waters within
17 the Basin is required for the full development of the Basin;
18 and to promote joint action by the States and the United
19 States in the efficient use of water and the control of floods.

20 B. The physical and other conditions peculiar to the
21 Basin constitute the basis for this compact; and none of the
22 States hereby, nor the Congress of the United States by its
23 consent, concedes that this compact establishes any general
24 principle or precedent with respect to any other interstate
25 stream.

1 C. Either State and all others using, claiming or in any
2 manner asserting any right to the use of the waters of the
3 Belle Fourche River under the authority of that State, shall
4 be subject to the terms of this compact.

5 ARTICLE II

6 As used in this compact:

7 A. The term "Belle Fourche River" shall mean and
8 include the Belle Fourche River and all its tributaries orig-
9 inating in Wyoming.

10 B. The term "Basin" shall mean that area in South
11 Dakota and Wyoming which is naturally drained by the
12 Belle Fourche River, and all its tributaries.

13 C. The term "beneficial use" is herein defined to be
14 that use by which the water supply of a drainage basin is
15 depleted when usefully employed by the activities of man,
16 and includes water lost by evaporation, and other natural
17 causes from streams, canals, ditches, irrigated areas, and
18 reservoirs.

19 D. Where the name of the State or the term "State" or
20 "States" is used, these shall be construed to include any
21 person or entity of any nature whatsoever using, claiming, or
22 in any manner asserting any right to the use of the waters of
23 the Belle Fourche River under the authority of that State.

24 ARTICLE III

25 It shall be the duty of the two States to administer this

1 compact through the official in each State who is now or may
2 hereafter be charged with the duty of administering the public
3 water supplies, and to collect and correlate through such
4 officials the data necessary for the proper administration of
5 the provisions of this compact. Such officials may, by unani-
6 mous action, adopt rules and regulations consistent with the
7 provisions of this compact.

8 The United States Geological Survey, or whatever Fed-
9 eral agency may succeed to the functions and duties of that
10 agency, insofar as this compact is concerned, shall collaborate
11 with the officials of the States charged with the administration
12 of this compact in the execution of the duty of such officials in
13 the collection, correlation, and publication of information
14 necessary for the proper administration of this compact.

15 ARTICLE IV

16 Each State shall itself or in conjunction with other re-
17 sponsible agencies cause to be established, maintained, and
18 operated such suitable water gaging stations as it finds neces-
19 sary to administer this compact.

20 ARTICLE V

21 A. Wyoming and South Dakota agree that the unappro-
22 priated waters of the Belle Fourche River as of the date of
23 this compact shall be allocated to each State as follows:

24 90% to South Dakota

25 10% to Wyoming;

1 Provided that allocations to Wyoming shall be exclusive of
2 the use of these waters for domestic and stock use, and
3 Wyoming shall be allowed unrestricted use for these pur-
4 poses, except that no reservoir for such use shall exceed 20
5 acre-feet in capacity. For storage of its allocated water,
6 Wyoming shall have the privilege of purchasing at cost
7 not to exceed 10% of the total storage capacity of any
8 reservoir or reservoirs constructed in Wyoming for irrigation
9 of lands in South Dakota, or may construct reservoirs
10 itself for the purpose of utilizing such water. Either State
11 may temporarily divert, or store for beneficial use, any
12 unused part of the above percentages allotted to the other,
13 but no continuing right shall be established thereby.

14 B. Rights to the use of the waters of the Belle Fourche
15 River, whether based on direct diversion or storage, are
16 hereby recognized as of the date of this compact to the
17 extent these rights are valid under the law of the State in
18 which the use is made, and shall remain unimpaired hereby.
19 These rights, together with the additional allocations made
20 under A of this Article, are agreed to be an equitable appor-
21 tionment between the States of the waters of the Basin.

22 C. The waters allocated under A of this Article and the
23 rights recognized under B of this Article are hereinafter re-
24 ferred to collectively as the apportioned water. For the
25 purposes of the administration of this compact and deter-

1 mining the apportioned water at any given date within a
2 given calendar year, there shall be taken the sum of:

3 (1) The quantity of water in acre-feet that passed the
4 Wyoming-South Dakota State line during the period from
5 January 1 of that year to that given date.

6 (2) The quantity of water in acre-feet in storage on
7 that date in all reservoirs built in Wyoming on the Belle
8 Fourche River subsequent to the date of this compact.

9 ARTICLE VI

10 Any person, entity, or State shall have the right to
11 acquire necessary property rights in another State by pur-
12 chase or through the exercise of the power of eminent domain
13 for the construction, operation and maintenance of storage
14 reservoirs and of appurtenant works, canals, and conduits
15 required for the enjoyment of the privileges granted by
16 Article V and Article VII A; provided, however, that the
17 grantees of such rights shall pay to the political subdivisions
18 of the State in which such works are located, each and every
19 year during which such rights are enjoyed for such pur-
20 poses, a sum of money equivalent to the average annual
21 amount of taxes assessed against the lands and improvements
22 thereon during the 10 years preceding the use of such lands
23 in reimbursement for the loss of taxes to said political sub-
24 division of the State.

ARTICLE VII

1

2 A. Either State shall have the right, by compliance with
3 the laws of the other State, to file applications for and receive
4 permits to construct or participate in the construction and
5 use of any dam, storage reservoir, or diversion works in such
6 State for the purpose of conserving and regulating the appor-
7 tioned water of the other State; provided, that such right is
8 subject to the rights of the other State to control, regulate,
9 and use water apportioned to it.

10 B. Each claim hereafter initiated for storage or diversion
11 of water in one State for use in another State shall be filed
12 in the Office of the State Engineer of the State in which the
13 water is to be stored or diverted, and a duplicate copy of the
14 application including a map showing the character and loca-
15 tion of the proposed facilities and the lands to be irrigated
16 shall be filed in the Office of the State Engineer of the State
17 in which the water is to be used. If a portion or all the
18 lands proposed to be reclaimed are located in a State other
19 than the one in which the water is to be stored or diverted.
20 then, before approval of the application shall be granted, said
21 application shall be checked against the records of the ap-
22 propriate office of the State in which the water is to be used,
23 and a notation shall be placed thereon by the officer in charge
24 of such records to the effect that the land description does not
25 indicate a conflict with existing water rights. All endorse-

1 ments shall be placed on both the original and duplicate copies
2 of all such maps filed to the end that the records in both
3 States may be complete and identical.

4 C. Appropriations may hereafter be adjudicated in the
5 State in which the water is stored or diverted, and where a
6 portion or all of the lands irrigated are in the other State,
7 such adjudications shall be confirmed in the latter State by the
8 proper authority. Each adjudication is to conform with the
9 laws of the State where the water is stored or diverted and
10 shall be recorded in the county and State where the water is
11 used.

12 ARTICLE VIII

13 In case any reservoir is constructed in Wyoming, to be
14 used principally for irrigation of lands in South Dakota,
15 sufficient water not to exceed 10 cubic feet per second shall
16 be released at all times for stock water use.

17 ARTICLE IX

18 No reservoir hereafter built solely to utilize the water
19 allocated to Wyoming shall have a capacity in excess of 1,000
20 acre-feet.

21 ARTICLE X

22 The provisions of this compact shall remain in full force
23 and effect until amended by action of the Legislature of the
24 States and consented to and approved by the Congress of

1 the United States in the same manner as this compact is
2 required to be ratified to become effective.

3 ARTICLE XI

4 This compact may be terminated at any time by unani-
5 mous consent of the States, and upon such termination, all
6 rights then established hereunder or recognized hereby shall
7 continue to be recognized as valid by the States notwith-
8 standing the termination of the other provisions of the
9 compact.

10 ARTICLE XII

11 Nothing in this compact shall be construed to limit or
12 prevent either State from instituting or maintaining any
13 action or proceeding, legal or equitable, in any Federal court
14 or the United States Supreme Court for the protection of any
15 right under this compact or the enforcement of any of its
16 provisions.

17 ARTICLE XIII

18 Nothing in this compact shall be deemed:

19 A. To impair or affect any rights or powers of the
20 United States, its agencies, or instrumentalities, in and to
21 the use of the waters of the Belle Fourche River nor its
22 capacity to acquire rights in and to the use of said waters;

23 B. To subject any property of the United States, its
24 agencies, or instrumentalities to taxation by either State or
25 subdivision thereof, nor to create an obligation on the part

1 of the United States, its agencies, or instrumentalities, by
2 reason of the acquisition, construction or operation of any
3 property or works of whatsoever kind, to make any pay-
4 ments to any State or political subdivision thereof, State
5 agency, municipality, or entity whatsoever in reimbursement
6 for the loss of taxes;

7 C. To subject any property of the United States, its agen-
8 cies, or instrumentalities, to the laws of any State to an
9 extent other than the extent to which these laws would apply
10 without regard to the compact.

11 ARTICLE XIV

12 This compact shall become operative when approved by
13 the Legislature of each of the States, and when consented to
14 by the Congress of the United States by legislation provid-
15 ing, among other things, that:

16 A. Any beneficial uses hereafter made by the United
17 States, or those acting by or under its authority, within a
18 State, of the waters allocated by this compact, shall be within
19 the allocations hereinabove made for use in that State and
20 shall be taken into account in determining the extent of use
21 within that State.

22 B. The United States, or those acting by or under its
23 authority, in the exercise of rights or powers arising from
24 whatever jurisdiction the United States has in, over and to
25 the waters of the Belle Fourche River and all its tributaries,

1 shall recognize, to the extent consistent with the best utiliza-
2 tion of the waters for multiple purposes, that beneficial use of
3 the waters within the Basin is of paramount importance to
4 development of the Basin, and no exercise of such power or
5 right thereby that would interfere with the full beneficial use
6 of the waters shall be made except upon a determination, giv-
7 ing due consideration to the objectives of this compact and
8 after consultation with all interested Federal agencies and the
9 State officials charged with the administration of this compact,
10 that such exercise is in the interest of the best utilization of
11 such waters for multiple purpose.

12 C. The United States, or those acting by or under its
13 authority, will recognize any established use, for domestic and
14 irrigation purposes, of the apportioned waters which may be
15 impaired by the exercise of Federal jurisdiction in, over, and
16 to such waters; provided, that such use is being exercised
17 beneficially, is valid under the laws of the appropriate State
18 and in conformity with this compact at the time of the im-
19 pairment thereof, and was validly initiated under State law
20 prior to the initiation or authorization of the Federal program
21 or project which causes such impairment.

22 ARTICLE XV

23 Should a court of competent jurisdiction hold any part of

1 this compact to be contrary to the constitution of any State
 2 or of the United States, all other severable provisions shall
 3 continue in full force and effect.

4 In Witness Whereof the Commissioners have signed this
 5 compact in triplicate original, one of which shall be filed in
 6 the archives of the Department of State of the United States
 7 of America and shall be deemed the authoritative original,
 8 and of which a duly certified copy shall be forwarded to the
 9 Governor of each of the States.

10 Done at the City of Cheyenne in the State of Wyoming,
 11 this 18th day of February, in the year of Our Lord, One
 12 Thousand Nine Hundred and Forty-three.

13 Commissioners for South Dakota

14 (Sgd) M. Q. Sharpe

15 M. Q. SHARPE

16 (Sgd) G. W. Morsman

17 G. W. MORSMAN

18 (Sgd) S. G. Mortimer

19 S. G. MORTIMER

20 (Sgd) W. D. Buchholz

21 W. D. BUCHHOLZ

1 Commissioners for Wyoming

2 (Sgd) L. C. Bishop

3 L. C. BISHOP

4 (Sgd) Samuel McKean

5 SAMUEL McKEAN

6 (Sgd) L. H. Robinson

7 L. H. ROBINSON

8 (Sgd) Mrs. E. E. McKean

9 MRS. E. E. McKEAN

10 I have participated in the negotiation of this compact
11 and intend to report favorably thereon to the Congress of
12 the United States.

13 (Sgd) Howard R. Stinson

14 HOWARD R. STINSON,

15 Representative of the United States of America.

16 SEC. 2. (a) In order that the conditions stated in ar-
17 ticle XIV of the compact hereby consented to shall be met
18 and that the compact shall be and continue to be operative,
19 the following provisions are enacted:

20 (1) Any beneficial uses hereafter made by the United
21 States, or those acting by or under its authority, within a
22 State, of the waters allocated by such compact, shall be
23 within the allocations made by such compact for use in that
24 State and shall be taken into account in determining the
25 extent of use within that State;

1 (2) The United States, or those acting by or under its
2 authority, in the exercise of rights or powers arising from
3 whatever jurisdiction the United States has in, over, and to
4 the waters of the Belle Fourche River and all its tributaries
5 shall recognize, to the extent consistent with the best utiliza-
6 tion of the waters for multiple purposes, that beneficial use
7 of the waters within the Basin is of paramount importance
8 to the development of the Basin; and no exercise of such
9 power or right thereby that would interfere with the full
10 beneficial use of the waters within the Basin shall be made
11 except upon a determination, giving due consideration to the
12 objectives of such compact and after consultation with all
13 interested Federal agencies and the State officials charged
14 with the administration of such compact, that such exercise
15 is in the interest of the best utilization of such waters for
16 multiple purposes;

17 (3) The United States, or those acting by or under its
18 authority, will recognize any established use, for domestic
19 and irrigation purposes, of the apportioned water which may
20 be impaired by the exercise of Federal jurisdiction in, over,
21 and to such water: *Provided*, That such use is being exer-
22 cised beneficially, is valid under the laws of the appropriate
23 State and in conformity with such compact at the time of the
24 impairment thereof, and was validly initiated under State

1 law prior to the initiation or authorization of the Federal
2 program or project which causes such impairment.

3 (b) As used in this section, the following terms: "ben-
4 eficial use", "Basin", and "apportioned water", shall have
5 the same meanings as those ascribed to them in the compact
6 consented to by this Act.

Passed the House of Representatives November 15,
1943.

Attest:

SOUTH TRIMBLE,

Clerk.

AN ACT

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

NOVEMBER 16 (legislative day, NOVEMBER 12), 1943
Read twice and referred to the Committee on
Irrigation and Reclamation

der these circumstances I sincerely believe that anyone sharing all the facts would agree with me that in making public its reports the committee's paramount obligation was to the thousands of men still alive and still held by the Japanese. From the beginning our primary consideration has been for the lives and welfare of these men, and our aim has been to stop future atrocities. This should continue to be our first concern. Our outraged feelings must be tempered by the sobering fact that thousands of our men are still alive and cannot be immediately rescued from the hands of a cruel and merciless enemy.

I thank you.

CALL OF THE ROLL

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Alken	Green	Radcliffe
Austin	Guffey	Reed
Bailey	Gurney	Revercomb
Ball	Hatch	Reynolds
Bankhead	Hawkes	Robertson
Barkley	Hayden	Russell
Bilbo	Hill	Shipstead
Brewster	Holman	Smith
Brooks	Jackson	Stewart
Buck	Johnson, Colo.	Taft
Burton	Kilgore	Thomas, Idaho
Bushfield	La Follette	Thomas, Okla.
Butler	Langer	Thomas, Utah
Byrd	Lucas	Tobey
Capper	McClellan	Truman
Caraway	McFarland	Tunnell
Chandler	McKellar	Tydings
Chavez	Maloney	Vandenberg
Clark, Idaho	Maybank	Wagner
Clark, Mo.	Mead	Wallgren
Connally	Millikin	Walsh, Mass.
Danaher	Moore	Walsh, N. J.
Davis	Murdoch	Wheeler
Downey	Murray	Wherry
Eastland	Nye	White
Ellender	O'Daniel	Wiley
Ferguson	O'Mahoney	Willis
George	Overton	Wilson
Gerry	Pepper	

Mr. HILL. I announce that the Senator from Florida [Mr. ANDREWS] and the Senator from Virginia [Mr. GLASS] are absent from the Senate because of illness.

The Senator from Nevada [Mr. SCRUGHAM] is absent on official business.

The Senator from Washington [Mr. BONE] is detained in a conference at the White House.

The Senator from Iowa [Mr. GILLETTE] is detained in one of the Government departments on matters pertaining to the State of Iowa.

Mr. WHITE. The Senator from Oregon [Mr. McNARY] is absent because of illness.

The Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

The ACTING PRESIDENT pro tempore. Eighty-six Senators having answered to their names, a quorum is present.

The further presentation of petitions and memorials is in order.

Mr. DANAHER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state the inquiry.

Mr. DANAHER. What is the question now pending before the Senate?

The ACTING PRESIDENT pro tempore. The presentation of further peti-

tions and memorials, as a part of the morning business.

Mr. DANAHER. I thank the Presiding Officer.

FOOD-STAMP PLAN—RESOLUTION OF SOUTHEAST KANSAS COUNTY OFFICIALS ASSOCIATION

Mr. CAPPER. Mr. President, I ask unanimous consent to have placed in the RECORD a resolution adopted by the committee on resolutions of the Southeast Kansas County Officials Association, meeting at Iola, Kans., January 13, 1944. This resolution protests against a resumption of the food-stamp plan, declares people on relief are now being amply cared for, and asks Members of Congress to oppose the plan.

I desire to call the attention of the Senate to this protest, and urge careful consideration of all the factors involved before any action is taken in this direction. The matter undoubtedly will be fully discussed and explained during the consideration of the consumer food-subsidy proposals when the Senate proceeds to consider the bill to extend the life of the Commodity Credit Corporation. I send the resolution to the desk and request its appropriate reference.

There being no objection, the resolution was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

We, the resolutions committee of Southeast Kansas County Officials Association in quarterly meeting assembled at Iola, Kans., this 13th day of January 1944, offer for your consideration the following resolution, to wit:

"Be it resolved, That inasmuch as there seems to be a movement in Washington to revive the stamp plan and that in the opinion of this body, that the people on relief are being amply cared for; that it is the opinion of this body that such a thing as the resumption of said stamp plan is not necessary; that this body go on record as against said stamp plan and urge our Senators and Representatives to not only vote against said plan but to work against said stamp plan and that a copy of this resolution be sent to our Senators and Representatives; to our Governor, and welfare board; also to all other district associations."

Chairman Callow moved the adoption of resolution. Motion seconded by Mr. Starr. Motion carried.

T. R. CALLOW,
Secretary, Southeast Kansas
County Officials' Association.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. O'MAHONEY:

From the Committee on Irrigation and Reclamation:

H. R. 2580. A bill to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes; without amendment (Rept. No. 683).

From the Committee on Military Affairs: S. 1635. A bill to eliminate a pay discrimination against the teacher of music at the United States Military Academy; without amendment (Rept. No. 686).

By Mr. CHANDLER, from the Committee on Military Affairs:

S. 1539. A bill to authorize the carrying of Civil War battle streamers with regimental colors; with an amendment (Rept. No. 684).

By Mr. GURNEY, from the Committee on Military Affairs:

S. 1669. A bill to clarify the law relative to allowances for mileage of graduates of the United States Military Academy and transportation of their dependents on assignment to their first duty station and to the mileage allowance of persons entering the United States Military Academy as cadets; with an amendment (Rept. No. 685).

FUNERAL EXPENSES OF THE LATE SENATOR VAN NUYS

Mr. LUCAS. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably without amendment Senate Resolution 246, and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be read for the information of the Senate.

The Chief Clerk read the resolution (S. Res. 246) submitted by Mr. WILLIS on January 27, 1944, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of Hon. Frederick Van Nuy, late a Senator from the State of Indiana, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

ADDITIONAL COPIES OF HEARINGS BEFORE SPECIAL COMMITTEE ON POST-WAR ECONOMIC POLICY AND PLANNING

Mr. HAYDEN. Mr. President, by direction of the Committee on Printing, I report from the Committee on Printing Senate Resolution 249, and ask unanimous consent for its immediate consideration. The resolution provides for the printing of additional copies of the hearings held by the Special Committee on Post-War Economic Policy and Planning.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 249) was read, considered, and agreed to, as follows:

Resolved, That in accordance with paragraph 3 of section 2 of the Printing Act, approved March 1, 1907, the Special Committee on Post-War Economic Policy and Planning of the United States Senate be, and is hereby, authorized and empowered to have printed for its use 500 additional copies of the hearings held before a subcommittee of said special committee, during the first session of the Seventy-eighth Congress, pursuant to the resolution (S. Res. 102) creating a special committee on post-war economic policy and planning.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. McCARRAN, from the Committee on the Judiciary:

Sterling Hutcheson, of Virginia, to be United States district judge for the eastern district of Virginia, vice Luther B. Way, deceased;

Herman E. Moore, of Illinois, to be judge of the district court of the Virgin Islands of the United States;

Norris Metzger Thomas, of South Carolina, to be United States marshal for the eastern district of South Carolina, vice William F. Burguson, deceased; and

Lynn J. Gemmill, of Alaska, to be United States attorney for the first division of Alaska, vice William A. Holzheimer, retired.

By Mr. McKELLAR, from the Committee on Post Offices and Post Roads:

Sundry postmasters.

REPORT OF NOMINATION OF ANTHONY J. DIMOND

As in executive session,

Mr. MURDOCK. Mr. President, by direction of the Judiciary Committee I ask unanimous consent to report favorably from that committee the nomination of ANTHONY J. DIMOND, of Alaska, to be United States district judge for the third division of Alaska.

I served for 8 years with ANTHONY J. DIMOND in the House of Representatives while he was serving as Delegate from Alaska. I have not met a man in the entire Congress, Mr. President, who has done a finer job in representing his Territorial district in Congress than has the Delegate from Alaska, and I know that if the Senate confirms his nomination as judge of the third division of Alaska we can expect the same fine record in his judicial capacity as we have seen in his legislative capacity.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be received and placed on the executive calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. REYNOLDS:

S. 1697. A bill to provide for distribution of the CONGRESSIONAL RECORD to libraries at military and naval establishments; to the Committee on Printing.

By Mr. McCARRAN:

S. 1698. A bill to carry out obligations of the United States under article 27 of the Geneva Convention relating to compensation for certain injuries to interned workers, and for other purposes; to the Committee on the Judiciary.

S. 1699. A bill to amend the District of Columbia Alley Dwelling Act, as amended; and

S. 1700. A bill to amend the District of Columbia Barber Act; to the Committee on the District of Columbia.

S. 1701. A bill for the relief of Mercy Duke Boehl; to the Committee on Immigration.

By Mr. BREWSTER:

S. 1702. A bill to amend the Selective Training and Service Act of 1940, as amended, with respect to the deferment of registrants engaged in any occupation or endeavor essential to the war effort; to the Committee on Military Affairs.

WARTIME METHOD OF VOTING BY MEMBERS OF THE ARMED FORCES—AMENDMENTS

Mr. FERGUSON submitted two amendments, and Mr. TAFT (for himself, Mr. McKELLAR, Mr. BALL, Mr. BAILEY, Mr.

BANKHEAD, Mr. BREWSTER, Mr. BUCK, Mr. EASTLAND, Mr. McCLELLAN, Mr. OVERTON, Mr. O'DANIEL, Mr. REYNOLDS, Mr. REVERCOMB, Mr. ROBERTSON, and Mr. SMITH) submitted an amendment, intended to be proposed to the amendment of Mr. BARKLEY to House amendment numbered 3 to the bill (S. 1285) to amend the act of September 16, 1942, which provided a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence, and for other purposes, which were severally ordered to lie on the table and to be printed.

MANUAL EXPLANATORY OF THE PRIVILEGES, RIGHTS, AND BENEFITS OF AND FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS

Mr. BONE submitted the following resolution (S. Res. 251), which was referred to the Committee on Printing:

Resolved, That the manuscript entitled "Manual Explanatory of the Privileges, Rights, and Benefits Provided for All Persons Who Are or Have Been Members of the Armed Forces of the United States, and of Those Dependent Upon Them" be printed as a Senate document; and that 5,000 additional copies be printed for the use of the Senate.

INQUIRY INTO LEGAL AUTHORITY FOR ISSUANCE OF EXECUTIVE ORDERS AND DEPARTMENTAL REGULATIONS

Mr. McCARRAN, from the Committee on the Judiciary, reported an original resolution (S. Res. 252), which, under the rule, was referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is hereby authorized and directed to study and survey any or all Executive orders of the President, and directives, rules, and regulations issued by or under authority of any department or independent agency of the executive branch of the Federal Government, with particular regard to the source of constitutional or legislative authority upon which such Executive orders, directives, rules, and regulations are based, their validity, and the effect and manner of their enforcement, and to report to the Senate before the end of the Seventy-eighth Congress the results of such study and survey, together with such recommendations for legislation as it deems justified.

Sec. 2. For the purposes of this resolution, the committee or any duly authorized subcommittee thereof is authorized to hold hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-eighth Congress, to employ such experts and such clerical, stenographic, and other assistants, to require such assistance and information from any departments and agencies of the Government, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed \$5,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

COMMITTEE SERVICE

On motion of Mr. BARKLEY, and by unanimous consent, it was

Ordered, That the junior Senator from Mississippi [Mr. EASTLAND] be excused from further service as a member of the Committee on Education and Labor, and that he be assigned to service on the Committee on the Judiciary; that the Senator from Alabama [Mr. BANKHEAD] be excused from further service as a member of the Committee on the District of Columbia; that the senior Senator from Mississippi [Mr. BILBO] be excused from further service as chairman of the Committee on Pensions, and that he be appointed chairman of the Committee on the District of Columbia; that the Senator from Delaware [Mr. TUNNELL] be appointed chairman of the Committee on Pensions; and that the Senator from Indiana [Mr. JACKSON] be assigned to service on the following committees: District of Columbia, Education and Labor, Expenditures in the Executive Departments, and Indian Affairs.

TRANSFER OF LOANS FROM HOME OWNERS' LOAN CORPORATION

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a preceding day.

The LEGISLATIVE CLERK. A resolution (S. Res. 248) requesting certain information concerning loans transferred by the Home Owners' Loan Corporation to private lending institutions.

Mr. BARKLEY. I ask unanimous consent that the resolution go over for the time being.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WHAT AMERICA WANTS—ADDRESS BY THE VICE PRESIDENT

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a very able address delivered by the distinguished Vice President of the United States at Los Angeles on Friday of last week and broadcast over N. B. C.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

On this trip to the west coast I propose to talk about America tomorrow. Today I shall speak about what America wants. Later on at San Francisco and Seattle I shall discuss what America can have and how America can get it. We want many different things and some of these are in conflict with others. But let me point out right at the start that the sum total of what we Americans can have is immense. Only a few years ago, when the President said we wanted 50,000 warplanes a year, some people thought he was being visionary. Today we know that the production of a hundred thousand warplanes a year is a hard reality. So I tell you we can have twice as much for civilian living after the war as we ever had before the war, and you know that is no dream. There are limits but they are much higher than most people even yet realize.

But we cannot have all these things unless we use good sense and good management. If we try to grab too much all we shall get is another boom and another collapse. That is why I want us to think clearly about what each of us wants, and then about how our desires can be made to fit into a practical total, and finally how to get that total. This is the practical way of planning, creating, and enjoying the common welfare.

The first and most important need has to do with the desires of plain folks who have to work for a living in the factories and the stores, in the schoolhouses and the Government offices. More than 50,000,000 of these

STATES OF SOUTH DAKOTA AND WYOMING RELATING
TO THE WATERS OF THE BELLE FOURCHE RIVER
BASIN

FEBRUARY 7, 1944.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Irrigation and Reclamation, submitted the following

REPORT

[To accompany H. R. 2580]

The Committee on Irrigation and Reclamation, to whom was referred the bill (S. 1057), to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes, having considered the same, recommend that it pass without amendment. This bill is a companion measure to S. 1057 which has also been before this committee.

The compact between the States of South Dakota and Wyoming was authorized by act of Congress. It has had the approval of all the departments and agencies of the Federal Government having jurisdiction over the subject matter. The Secretary of the Interior, the Secretary of Agriculture, the Chairman of the Federal Power Commission, and the Chief of Engineers of the War Department all have examined the measure and there is no opposition.

The report of the Department of the Interior is as follows:

THE SECRETARY OF THE INTERIOR,
Washington, October 8, 1943.

HON. COMPTON I. WHITE,
*Chairman, Committee on Irrigation and Reclamation,
House of Representatives, Washington, D. C.*

MY DEAR MR. WHITE: Pursuant to an informal arrangement made with your committee, I am submitting this report on H. R. 2580, a bill relating to the proposed Belle Fourche River compact.

I recommend the enactment of this bill.

This Department has an interest in the Belle Fourche River Basin and particularly in the problems in connection with the development, through irrigation, of the arable lands therein. Through the Bureau of Reclamation of this Department, the United States has made an investment in irrigation works in the basin,

and investigations are being made by that Bureau with a view to effecting a greater utilization of the waters of the river within the basin. In fact, the desirability of a water compact between South Dakota and Wyoming became evident, in part, as a result of our studies. The extent of this Department's interest in the basin was recognized by Congress in the act of February 26, 1927 (44 Stat. 1247), authorizing the negotiation of a compact between these States and providing that the representative of the United States should be from the Department of the Interior.

Taking the Belle Fourche compact as a whole, I believe that it offers a sound solution of the water problems confronting South Dakota and Wyoming in the case of the Belle Fourche River. The proposed compact and related consenting legislation follow closely the recently approved Republican River compact, insofar as they deal with the possibility of conflicts between certain uses of water and rights established under State law, on the one hand, and the exercise of Federal jurisdiction in and to the waters of the river, on the other. I believe that the legislative device for the handling of these possible conflicts is also appropriate in this case, considering the characteristics and potentialities of the river. I wish to note, however, as did the President in approving the legislation consenting to the Republican River compact, that for streams of different characteristics and potentialities it may be found desirable to rephrase or to modify certain features of that legislative device or to treat the matter in a different manner. I am not sure, for example, that the formula should be applied to a stream in which multiple-purpose Federal developments represent a major interest in the use of the water, and believe that this question should be left open.

The effect which the consultation procedure, provided in article XIV B of the proposed compact and in section 2 (a) (2) of the bill, in connection with the exercise of Federal jurisdiction, is intended to have upon the exercise of Federal regulatory jurisdiction has given rise to some question. The compact and the bill would not alter the power of the Federal Government to act, although compensation must in some cases be paid for injuries to established water users. Had the provisions for consultation been stated somewhat differently or with greater particularity, however, the possibility of an interpretation which would hamper Federal agencies charged with the regulatory responsibility could have been avoided. My interpretation of these provisions, in any event, is that the consultation procedure would be requisite only in cases where the exercise of Federal regulatory jurisdiction as to the apportioned waters of the river would require the use of any part thereof in a manner that would preclude the use and development of that part for beneficial purposes within the basin. On the other hand, I understand that such regulatory jurisdiction could be exercised without regard to the consultation procedure in any case where the exercise would not have such a result. Since the prospect of hydroelectric power developments on the Belle Fourche River appears to be remote and only incidental to irrigation developments, the question appears not to be of great consequence in this case.

The provisions of article V of the proposed compact, whereby the compacting States agree to recognize existing rights to the use of water as of the date of the compact, are of interest to this Department in connection with the Belle Fourche project in South Dakota. This provision, I understand, is intended to remove an ambiguity as to the status and priority of project water rights arising out of the absence of water filings in Wyoming for the project.

The proposed compact also provides that storage and diversion works may be built in either State for the use of waters apportioned thereby on lands in the other State. This provision is of importance to this Department in connection with the possibilities of the development of additional storage for lands in South Dakota. The studies made by the Bureau of Reclamation indicate that the best site for such storage is in Wyoming. While it has not been determined as yet whether such an undertaking would be feasible, this provision would remove one of the obstacles heretofore existing to it. In this connection it will be noted, by reason of the provisions of article XIII, that, if such storage were built and owned by the United States, the provisions of the proposed compact for payments in lieu of taxes would not be applicable to the United States, its agencies, or its instrumentalities.

The Director of the Bureau of the Budget advises that this report would not be in conflict with the program of the President.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

Calendar No. 693

78TH CONGRESS
1ST SESSION

H. R. 2580

[Report No. 683]

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16 (legislative day, NOVEMBER 12), 1943

Read twice and referred to the Committee on Irrigation and Reclamation

FEBRUARY 7, 1944

Reported by Mr. O'MAHONEY, without amendment

AN ACT

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the consent of Congress is hereby given to a compact
4 authorized by the Act entitled "An Act granting the consent
5 of Congress to compacts or agreements between the States
6 of South Dakota and Wyoming with respect to the division
7 and apportionment of the waters of the Belle Fourche and
8 Cheyenne Rivers and other streams in which such States
9 are jointly interested", approved February 26, 1927 (44

1 Stat. 1247), signed by commissioners for the States of
 2 South Dakota and Wyoming, on the 18th day of February
 3 1943 and thereafter ratified by the act of the Legislature
 4 of South Dakota entitled "An act ratifying and approving
 5 a compact between the States of Wyoming and South
 6 Dakota for use of the waters of the Belle Fourche River,
 7 and declaring an emergency", approved March 4, 1943 and
 8 the act of the Legislature of Wyoming entitled "An act to
 9 provide for the ratification and approval of the Belle Fourche
 10 River Compact", approved March 3, 1943, which compact
 11 reads as follows:

12 BELLE FOURCHE RIVER COMPACT

13 The States of South Dakota and Wyoming, parties signa-
 14 tory to this compact (hereinafter referred to as South Dakota
 15 and Wyoming, respectively, or individually as a State, or
 16 collectively as the States), have resolved to conclude a com-
 17 pact as authorized under the Act of Congress of February
 18 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotia-
 19 tions participated in by the following named State Com-
 20 missioners.

21 For South Dakota:

22 M. Q. Sharpe

23 G. W. Morsman

24 S. G. Mortimer

25 W. D. Buchholz

1 For Wyoming:

2 L. C. Bishop

3 Samuel McKean

4 L. H. Robinson

5 Mrs. E. E. McKean

6 and by Howard R. Stinson, appointed as the Representative
7 of the United States of America, have agreed upon the
8 following articles, to-wit:

9 ARTICLE I

10 A. The major purposes of this compact are to provide
11 for the most efficient use of the waters of the Belle Fourche
12 River Basin (hereinafter referred to as the Basin) for mul-
13 tiple purposes; to provide for an equitable division of such
14 waters; to remove all causes, present and future, which might
15 lead to controversies; to promote interstate comity; to rec-
16 ognize that the most efficient utilization of the waters within
17 the Basin is required for the full development of the Basin;
18 and to promote joint action by the States and the United
19 States in the efficient use of water and the control of floods.

20 B. The physical and other conditions peculiar to the
21 Basin constitute the basis for this compact; and none of the
22 States hereby, nor the Congress of the United States by its
23 consent, concedes that this compact establishes any general
24 principle or precedent with respect to any other interstate
25 stream.

1 C. Either State and all others using, claiming or in any
2 manner asserting any right to the use of the waters of the
3 Belle Fourche River under the authority of that State, shall
4 be subject to the terms of this compact.

5

ARTICLE II

6 As used in this compact:

7 A. The term "Belle Fourche River" shall mean and
8 include the Belle Fourche River and all its tributaries orig-
9 inating in Wyoming.

10 B. The term "Basin" shall mean that area in South
11 Dakota and Wyoming which is naturally drained by the
12 Belle Fourche River, and all its tributaries.

13 C. The term "beneficial use" is herein defined to be
14 that use by which the water supply of a drainage basin is
15 depleted when usefully employed by the activities of man,
16 and includes water lost by evaporation, and other natural
17 causes from streams, canals, ditches, irrigated areas, and
18 reservoirs.

19 D. Where the name of the State or the term "State" or
20 "States" is used, these shall be construed to include any
21 person or entity of any nature whatsoever using, claiming, or
22 in any manner asserting any right to the use of the waters of
23 the Belle Fourche River under the authority of that State.

24

ARTICLE III

25 It shall be the duty of the two States to administer this

1 compact through the official in each State who is now or may
2 hereafter be charged with the duty of administering the public
3 water supplies, and to collect and correlate through such
4 officials the data necessary for the proper administration of
5 the provisions of this compact. Such officials may, by unani-
6 mous action, adopt rules and regulations consistent with the
7 provisions of this compact.

8 The United States Geological Survey, or whatever Fed-
9 eral agency may succeed to the functions and duties of that
10 agency, insofar as this compact is concerned, shall collaborate
11 with the officials of the States charged with the administration
12 of this compact in the execution of the duty of such officials in
13 the collection, correlation, and publication of information
14 necessary for the proper administration of this compact.

15 ARTICLE IV

16 Each State shall itself or in conjunction with other re-
17 sponsible agencies cause to be established, maintained, and
18 operated such suitable water gaging stations as it finds neces-
19 sary to administer this compact.

20 ARTICLE V

21 A. Wyoming and South Dakota agree that the unappro-
22 priated waters of the Belle Fourche River as of the date of
23 this compact shall be allocated to each State as follows:

24 90% to South Dakota

25 10% to Wyoming;

1 Provided that allocations to Wyoming shall be exclusive of
2 the use of these waters for domestic and stock use, and
3 Wyoming shall be allowed unrestricted use for these pur-
4 poses, except that no reservoir for such use shall exceed 20
5 acre-feet in capacity. For storage of its allocated water,
6 Wyoming shall have the privilege of purchasing at cost
7 not to exceed 10% of the total storage capacity of any
8 reservoir or reservoirs constructed in Wyoming for irrigation
9 of lands in South Dakota, or may construct reservoirs
10 itself for the purpose of utilizing such water. Either State
11 may temporarily divert, or store for beneficial use, any
12 unused part of the above percentages allotted to the other,
13 but no continuing right shall be established thereby.

14 B. Rights to the use of the waters of the Belle Fourche
15 River, whether based on direct diversion or storage, are
16 hereby recognized as of the date of this compact to the
17 extent these rights are valid under the law of the State in
18 which the use is made, and shall remain unimpaired hereby.
19 These rights, together with the additional allocations made
20 under A of this Article, are agreed to be an equitable appor-
21 tionment between the States of the waters of the Basin.

22 C. The waters allocated under A of this Article and the
23 rights recognized under B of this Article are hereinafter re-
24 ferred to collectively as the apportioned water. For the
25 purposes of the administration of this compact and deter-

1 mining the apportioned water at any given date within a
2 given calendar year, there shall be taken the sum of:

3 (1) The quantity of water in acre-feet that passed the
4 Wyoming-South Dakota State line during the period from
5 January 1 of that year to that given date.

6 (2) The quantity of water in acre-feet in storage on
7 that date in all reservoirs built in Wyoming on the Belle
8 Fourche River subsequent to the date of this compact.

9 ARTICLE VI

10 Any person, entity, or State shall have the right to
11 acquire necessary property rights in another State by pur-
12 chase or through the exercise of the power of eminent domain
13 for the construction, operation and maintenance of storage
14 reservoirs and of appurtenant works, canals, and conduits
15 required for the enjoyment of the privileges granted by
16 Article V and Article VII A; provided, however, that the
17 grantees of such rights shall pay to the political subdivisions
18 of the State in which such works are located, each and every
19 year during which such rights are enjoyed for such pur-
20 poses, a sum of money equivalent to the average annual
21 amount of taxes assessed against the lands and improvements
22 thereon during the 10 years preceding the use of such lands
23 in reimbursement for the loss of taxes to said political sub-
24 division of the State.

ARTICLE VII

1

2 A. Either State shall have the right, by compliance with
3 the laws of the other State, to file applications for and receive
4 permits to construct or participate in the construction and
5 use of any dam, storage reservoir, or diversion works in such
6 State for the purpose of conserving and regulating the appor-
7 tioned water of the other State; provided, that such right is
8 subject to the rights of the other State to control, regulate,
9 and use water apportioned to it.

10 B. Each claim hereafter initiated for storage or diversion
11 of water in one State for use in another State shall be filed
12 in the Office of the State Engineer of the State in which the
13 water is to be stored or diverted, and a duplicate copy of the
14 application including a map showing the character and loca-
15 tion of the proposed facilities and the lands to be irrigated
16 shall be filed in the Office of the State Engineer of the State
17 in which the water is to be used. If a portion or all the
18 lands proposed to be reclaimed are located in a State other
19 than the one in which the water is to be stored or diverted.
20 then, before approval of the application shall be granted, said
21 application shall be checked against the records of the ap-
22 propriate office of the State in which the water is to be used,
23 and a notation shall be placed thereon by the officer in charge
24 of such records to the effect that the land description does not
25 indicate a conflict with existing water rights. All endorse-

1 ments shall be placed on both the original and duplicate copies
2 of all such maps filed to the end that the records in both
3 States may be complete and identical.

4 C. Appropriations may hereafter be adjudicated in the
5 State in which the water is stored or diverted, and where a
6 portion or all of the lands irrigated are in the other State,
7 such adjudications shall be confirmed in the latter State by the
8 proper authority. Each adjudication is to conform with the
9 laws of the State where the water is stored or diverted and
10 shall be recorded in the county and State where the water is
11 used.

12 ARTICLE VIII

13 In case any reservoir is constructed in Wyoming, to be
14 used principally for irrigation of lands in South Dakota,
15 sufficient water not to exceed 10 cubic feet per second shall
16 be released at all times for stock water use.

17 ARTICLE IX

18 No reservoir hereafter built solely to utilize the water
19 allocated to Wyoming shall have a capacity in excess of 1,000
20 acre-feet.

21 ARTICLE X

22 The provisions of this compact shall remain in full force
23 and effect until amended by action of the Legislature of the
24 States and consented to and approved by the Congress of

1 the United States in the same manner as this compact is
2 required to be ratified to become effective.

3 ARTICLE XI

4 This compact may be terminated at any time by unani-
5 mous consent of the States, and upon such termination, all
6 rights then established hereunder or recognized hereby shall
7 continue to be recognized as valid by the States notwith-
8 standing the termination of the other provisions of the
9 compact.

10 ARTICLE XII

11 Nothing in this compact shall be construed to limit or
12 prevent either State from instituting or maintaining any
13 action or proceeding, legal or equitable, in any Federal court
14 or the United States Supreme Court for the protection of any
15 right under this compact or the enforcement of any of its
16 provisions.

17 ARTICLE XIII

18 Nothing in this compact shall be deemed:

19 A. To impair or affect any rights or powers of the
20 United States, its agencies, or instrumentalities, in and to
21 the use of the waters of the Belle Fourche River nor its
22 capacity to acquire rights in and to the use of said waters;

23 B. To subject any property of the United States, its
24 agencies, or instrumentalities to taxation by either State or
25 subdivision thereof, nor to create an obligation on the part

1 of the United States, its agencies, or instrumentalities, by
2 reason of the acquisition, construction or operation of any
3 property or works of whatsoever kind, to make any pay-
4 ments to any State or political subdivision thereof, State
5 agency, municipality, or entity whatsoever in reimbursement
6 for the loss of taxes;

7 C. To subject any property of the United States, its agen-
8 cies, or instrumentalities, to the laws of any State to an
9 extent other than the extent to which these laws would apply
10 without regard to the compact.

11 ARTICLE XIV

12 This compact shall become operative when approved by
13 the Legislature of each of the States, and when consented to
14 by the Congress of the United States by legislation provid-
15 ing, among other things, that:

16 A. Any beneficial uses hereafter made by the United
17 States, or those acting by or under its authority, within a
18 State, of the waters allocated by this compact, shall be within
19 the allocations hereinabove made for use in that State and
20 shall be taken into account in determining the extent of use
21 within that State.

22 B. The United States, or those acting by or under its
23 authority, in the exercise of rights or powers arising from
24 whatever jurisdiction the United States has in, over and to
25 the waters of the Belle Fourche River and all its tributaries,

1 shall recognize, to the extent consistent with the best utiliza-
2 tion of the waters for multiple purposes, that beneficial use of
3 the waters within the Basin is of paramount importance to
4 development of the Basin, and no exercise of such power or
5 right thereby that would interfere with the full beneficial use
6 of the waters shall be made except upon a determination, giv-
7 ing due consideration to the objectives of this compact and
8 after consultation with all interested Federal agencies and the
9 State officials charged with the administration of this compact,
10 that such exercise is in the interest of the best utilization of
11 such waters for multiple purpose.

12 C. The United States, or those acting by or under its
13 authority, will recognize any established use, for domestic and
14 irrigation purposes, of the apportioned waters which may be
15 impaired by the exercise of Federal jurisdiction in, over, and
16 to such waters; provided, that such use is being exercised
17 beneficially, is valid under the laws of the appropriate State
18 and in conformity with this compact at the time of the im-
19 pairment thereof, and was validly initiated under State law
20 prior to the initiation or authorization of the Federal program
21 or project which causes such impairment.

22

ARTICLE XV

23

Should a court of competent jurisdiction hold any part of

1 this compact to be contrary to the constitution of any State
2 or of the United States, all other severable provisions shall
3 continue in full force and effect.

4 In Witness Whereof the Commissioners have signed this
5 compact in triplicate original, one of which shall be filed in
6 the archives of the Department of State of the United States
7 of America and shall be deemed the authoritative original,
8 and of which a duly certified copy shall be forwarded to the
9 Governor of each of the States.

10 Done at the City of Cheyenne in the State of Wyoming,
11 this 18th day of February, in the year of Our Lord, One
12 Thousand Nine Hundred and Forty-three.

13 Commissioners for South Dakota

14 (Sgd) M. Q. Sharpe

15 M. Q. SHARPE

16 (Sgd) G. W. Morsman

17 G. W. MORSMAN

18 (Sgd) S. G. Mortimer

19 S. G. MORTIMER

20 (Sgd) W. D. Buchholz

21 W. D. BUCHHOLZ

1 Commissioners for Wyoming

2 (Sgd) L. C. Bishop

3 L. C. BISHOP

4 (Sgd) Samuel McKean

5 SAMUEL MCKEAN

6 (Sgd) L. H. Robinson

7 L. H. ROBINSON

8 (Sgd) Mrs. E. E. McKean

9 MRS. E. E. MCKEAN

10 I have participated in the negotiation of this compact
11 and intend to report favorably thereon to the Congress of
12 the United States.

13 (Sgd) Howard R. Stinson

14 HOWARD R. STINSON,

15 Representative of the United States of America.

16 SEC. 2. (a) In order that the conditions stated in ar-
17 ticle XIV of the compact hereby consented to shall be met
18 and that the compact shall be and continue to be operative,
19 the following provisions are enacted:

20 (1) Any beneficial uses hereafter made by the United
21 States, or those acting by or under its authority, within a
22 State, of the waters allocated by such compact, shall be
23 within the allocations made by such compact for use in that
24 State and shall be taken into account in determining the
25 extent of use within that State;

1 (2) The United States, or those acting by or under its
2 authority, in the exercise of rights or powers arising from
3 whatever jurisdiction the United States has in, over, and to
4 the waters of the Belle Fourche River and all its tributaries
5 shall recognize, to the extent consistent with the best utiliza-
6 tion of the waters for multiple purposes, that beneficial use
7 of the waters within the Basin is of paramount importance
8 to the development of the Basin; and no exercise of such
9 power or right thereby that would interfere with the full
10 beneficial use of the waters within the Basin shall be made
11 except upon a determination, giving due consideration to the
12 objectives of such compact and after consultation with all
13 interested Federal agencies and the State officials charged
14 with the administration of such compact, that such exercise
15 is in the interest of the best utilization of such waters for
16 multiple purposes;

17 (3) The United States, or those acting by or under its
18 authority, will recognize any established use, for domestic
19 and irrigation purposes, of the apportioned water which may
20 be impaired by the exercise of Federal jurisdiction in, over,
21 and to such water: *Provided*, That such use is being exer-
22 cised beneficially, is valid under the laws of the appropriate
23 State and in conformity with such compact at the time of the
24 impairment thereof, and was validly initiated under State

1 law prior to the initiation or authorization of the Federal
2 program or project which causes such impairment.

3 (b) As used in this section, the following terms: "ben-
4 eficial use", "Basin", and "apportioned water", shall have
5 the same meanings as those ascribed to them in the compact
6 consented to by this Act.

Passed the House of Representatives November 15,
1943.

Attest:

SOUTH TRIMBLE,

Clerk.

78TH CONGRESS
1ST SESSION

H. R. 2580

[Report No. 683]

AN ACT

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

NOVEMBER 16 (legislative day, NOVEMBER 12), 1943
Read twice and referred to the Committee on
Irrigation and Reclamation

FEBRUARY 7, 1944
Reported without amendment

the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

TITLES FOR HEADS OF STAFF DEPARTMENTS OF UNITED STATES MARINE CORPS

The bill (S. 1653) to provide titles for heads of staff departments of the United States Marine Corps, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That hereafter officers serving as heads of the Paymaster's Department and the Quartermaster's Department of the United States Marine Corps shall have the title of "The Paymaster General of the Marine Corps" and "The Quartermaster General of the Marine Corps," respectively.

SEC. 2. All laws or parts of laws now in force relating to the staff departments of the United States Marine Corps, except as provided in section 1 of this act, shall remain in full force and effect.

SGT. MAJ. RICHARD SHAKER

The bill (S. 1676) for the relief of Sgt. Maj. Richard Shaker, United States Marine Corps, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Sergeant Major Shaker, United States Marine Corps, the sum of \$85, which sum represents the value of a radio lost while in the custody of the Marine Corps authorities at Quantico, Va.: *Provided,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

LT. (JR. GR.) NEWT A. SMITH

The bill (S. 1677) for the relief of Lt. (Jr. Gr.) Newt A. Smith, United States Naval Reserve, for the value of personal property lost or damaged as the result of a fire occurring on August 11, 1943, in quarters occupied by him in the armory of Aviation Free Gunnery Unit, Dam Neck, Va., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$272.50 to reimburse Lt. (Jr. Gr.) Newt A. Smith, United States Naval Reserve, for the value of personal property lost or damaged as the result of a fire occurring on August 11, 1943, in quarters occupied by him in the armory of the Aviation Free Gunnery Unit, Dam Neck, Va.: *Provided,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

REIMBURSEMENT OF CERTAIN MARINE CORPS PERSONNEL FOR LOSS OF PROPERTY

The bill (S. 1681) to provide for reimbursement of certain Marine Corps personnel attached to Marine Utility Squadron 152 for personal property lost or damaged as the result of a fire in officers' quarters on February 9, 1943, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum or sums, amounting in the aggregate not to exceed \$1,483.36, as may be required by the Secretary of the Navy to reimburse, under such regulations as he may prescribe, certain Marine Corps personnel for the value of personal property lost or damaged in a fire that destroyed quarters assigned to certain officers of Marine Utility Squadron 152 on February 9, 1943: *Provided,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

RENEWAL OF CORPORATE SURETY BONDS FOR OFFICERS AND MEN OF ARMED FORCES

The Senate proceeded to consider the bill (S. 1647) to amend the act of March 2, 1895, as amended, which had been reported from the Committee on Naval Affairs, with an amendment, on page 1, line 9, after the words "enlisted men of the", to insert "Army," so as to make the bill read:

Be it enacted, etc., That section 5 of the act of Congress approved March 2, 1895 (28 Stat. 807), as amended by an act approved March 8, 1928 (45 Stat. 247), is further amended by inserting in the third line of the proviso as it appears on page 247 of volume 45 of the United States Statutes at Large, after the word "employees" the following: "and bonded officers and enlisted men of the Army, Navy, Marine Corps, and Coast Guard."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADDITIONAL SHIP-REPAIR FACILITIES FOR THE NAVY

The Senate proceeded to consider the bill (S. 1668) authorizing appropriations for the United States Navy for additional ship-repair facilities, and for other purposes, which had been reported from the Committee on Naval Affairs, with an amendment, on page 2, after line 5, to insert:

SEC. 3. The Secretary of the Navy from time to time, but not less frequently than every 60 days, shall transmit to the Congress a full report of all acquisitions of land, by lease or otherwise, effected under the authority of this act.

So as to make the bill read:

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any

money in the Treasury not otherwise appropriated, \$130,000,000 for essential equipment and facilities at either private or public plants for repairing, altering, or converting any vessel operated by the Navy or the War Shipping Administration or being prepared for the use of either.

SEC. 2. The authority herein granted shall include the authority to acquire lands at such locations as the Secretary of the Navy may deem best suited to the purpose of the authority herein contained, erect or extend buildings, acquire the necessary machinery and equipment, and shall be in addition to all authority heretofore granted for these purposes.

SEC. 3. The Secretary of the Navy from time to time, but not less frequently than every 60 days, shall transmit to the Congress a full report of all acquisitions of land, by lease or otherwise, effected under the authority of this act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ACCEPTANCE OF GIFTS AND BEQUESTS FOR UNITED STATES NAVAL ACADEMY

The bill (S. 1640) to authorize the Secretary of the Navy to accept gifts and bequests for the United States Naval Academy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized in his discretion to accept, receive, hold, administer, and expend gifts and bequests of personal property, from individuals or others, for the benefit of, or for use in connection with, the United States Naval Academy.

SEC. 2. Gifts or bequests of money or the proceeds from sales of other property received as gifts shall be deposited in the Treasury of the United States under the title "United States Naval Academy general gift fund," and any funds so deposited shall be subject to disbursement by the Secretary of the Navy for the benefit or use of the United States Naval Academy subject to the terms and conditions of the acceptance of any particular gift or bequest.

SEC. 3. Gifts and bequests accepted by the Secretary of the Navy under authority of this act shall be exempt from all Federal taxes.

SEC. 4. The Secretary of the Treasury is authorized, upon request of the Secretary of the Navy, to invest, reinvest, or retain investments of the money or securities composing the United States Naval Academy general gift fund, or any part thereof, deposited in the Treasury pursuant to section 2 of this act, in securities of the United States Government or in securities guaranteed as to principal and interest by the United States Government. The interest and profits accruing from such securities may be deposited to the credit of the United States Naval Academy general gift fund, and will be available for disbursement as provided in section 2 of this act.

COMPACT RELATING TO WATERS OF THE BELLE FOURCHE RIVER BASIN

The bill (H. R. 2580) to grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes, was con-

sidered, ordered to a third reading, read the third time, and passed.

CARRYING OF CIVIL-WAR BATTLE STREAMERS WITH REGIMENTAL COLORS

The Senate proceeded to consider the bill (S. 1539) to authorize the carrying of Civil War battle streamers with regimental colors, which had been reported from the Committee on Military Affairs, with an amendment, on page 1, line 6, after the word "colors", to insert a comma and the words "upon verification in the War Department that such streamers were carried by the regiment in the Civil War", so as to make the bill read:

Be it enacted, etc., That, in accordance with such regulations as the Secretary of War may prescribe, each regiment of the Army of the United States is hereby authorized to carry its Civil War battle streamers with its regimental colors, upon verification in the War Department that such streamers were carried by the regiment in the Civil War.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ALLOWANCES FOR MILEAGE OF MILITARY ACADEMY GRADUATES

The Senate proceeded to consider the bill (S. 1669) to clarify the law relative to allowances for mileage of graduates of the United States Military Academy and transportation of their dependents on assignment to their first duty station and to the mileage allowance of persons entering the United States Military Academy as cadets, which had been reported from the Committee on Military Affairs, with an amendment, on page 3, line 5, after the word "abode", to insert "or home, school, or Army station", so as to make the bill read:

Be it enacted, etc., That officers graduated from the United States Military Academy when traveling under competent orders to the first station to which they are permanently assigned for duty shall receive the mileage allowance authorized by law for officers of the Army traveling under competent orders without troops, for the distance actually traveled under such orders, not to exceed the distance by the shortest usually traveled route from their homes or from West Point, N. Y., as may be designated in their orders, to such first duty stations. The orders mentioned in the first sentence of this section shall be deemed to involve a "permanent change of station" as those words are used in the fifth paragraph of section 12, Pay Readjustment Act of 1942 (act of June 16, 1942; 56 Stat. 365), and the rights of the officers concerned shall be governed by the provisions of that paragraph with respect to the transportation of their dependents and household effects. That portion of the act of August 9, 1912 (37 Stat. 252; 10 U. S. C. 744), which reads as follows: "Provided further, That hereafter a graduate of the Military Academy shall receive mileage as authorized by law for officers of the Army from his home to the station which he first joins for duty," is hereby repealed. The provisions of this section shall be effective as of January 19, 1943: *Provided*, That no person shall suffer, by reason of the enactment of this act, any reduction in any allowance or compensation which he has been paid or to which he was entitled immediately prior thereto.

SEC. 2. A person entering the United States Military Academy as a cadet shall receive a

mileage allowance at the rate of 5 cents per mile for all travel which he actually performs, and which he certifies he has actually performed while proceeding to the United States Military Academy for admission as a cadet, not in excess of the distance by the shortest usually traveled route between the place which he certifies was his actual permanent place of abode or home, school, or Army station at the time such travel was commenced and the United States Military Academy. All payments to such persons for travel to the United States Military Academy made on or after June 1, 1940, to the extent that they involve questions as to the place from which payment of mileage was authorized, are hereby approved, ratified, and confirmed.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELIMINATION OF PAY DISCRIMINATION AGAINST TEACHER OF MUSIC, UNITED STATES MILITARY ACADEMY

The bill (S. 1635) to eliminate a pay discrimination against the teacher of music at the United States Military Academy was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the act entitled "An act to make better provision for the teacher of music, the leader of the Military Academy Band," approved May 27, 1940 (54 Stat. 223), is amended by striking out the words "third pay period", wherever they occur in such act, and inserting in lieu thereof the words "grade of captain."

BILL AND RESOLUTION PASSED OVER

The bill (S. 1509) to provide for the education and training of members of the armed forces and the merchant marine after their discharge or conclusion of service, and for other purposes was announced as next in order.

Mr. BYRD. Mr. President, this is a very important bill. I ask that it be passed over.

The PRESIDING OFFICER. The bill will be passed over.

The resolution (S. Res. 234) to pay a gratuity to Della M. Bender was announced as next in order.

Mr. WHITE. I ask that the resolution go over.

The PRESIDING OFFICER. The resolution will be passed over.

UNITED NATIONS RELIEF AND REHABILITATION ORGANIZATION—JOINT RESOLUTION PASSED OVER

The joint resolution (H. J. Res. 192) to enable the United States to participate in the work of the United Nations Relief and Rehabilitation organization was announced as next in order.

Mr. BARKLEY. Mr. President, the joint resolution is scheduled to come up tomorrow. Later in the day I may ask to have it made the unfinished business, with the understanding that it will not be taken up today.

I ask that the joint resolution be passed over.

The PRESIDING OFFICER. The joint resolution will be passed over.

That concludes the calendar.

PERSONAL STATEMENT

Mr. McKELLAR. Mr. President, on yesterday, Monday, February 14, Frank

C. Waldrop, a so-called columnist, had this to say in his column in the Times-Herald in speaking of the Latin-American expenditures matter:

The smear artist shot the hypo to Senator K. D. McKELLAR (Democrat) of Tennessee and handed him a speech to make at Senator BUTLER.

This statement is a wilful, deliberate, and malicious lie out of whole cloth and shows Waldrop to be an assassin of character. Not only did I not make a speech that somebody else wrote in this particular matter, but never in my 27 years' service in the Senate have I made a speech that anyone else wrote. Waldrop is a miserable and ignorant liar. I am quite sure that the other 95 Senators who have served with me and the many others who served with me and who have left the Senate, will all bear witness with me that I prepare and make my own speeches, and that I do not make speeches on the floor of the Senate that other persons prepare for me. If any Senator feels that he knows of an instance to the contrary, I ask him to rise and say so.

POST-WAR COMMITMENTS BY UNITED NATIONS

Mr. SHIPSTEAD obtained the floor.

Mr. HATCH. Mr. President, will the Senator yield to me?

Mr. SHIPSTEAD. For what purpose?

Mr. HATCH. A little while ago I gave notice that as soon as the calendar was concluded I wished to return to a certain measure on the calendar, to which I should like to refer before other business is taken up.

The PRESIDING OFFICER. The Senator from Minnesota desires to address the Senate.

Mr. SHIPSTEAD. Mr. President, I do not yield.

Mr. President, on November 5, 1943, I urged the Senate not to rush into an un-informed endorsement of what was reported to have been agreed to at Moscow. An overwhelming majority of the Senate felt it better, however, to endorse at once the general principles communicated to us by the press as the solemn conclusion of the representatives, respectively, of the President of the Union of Soviet Socialist Republics, the King of England and Emperor of India, and the President of the United States.

The Declaration of Moscow was approved by the Senate even before the Secretary of State had come before any of its committees, or had addressed a joint session of the Senate and House of Representatives.

Less than 14 weeks later, on February 15, we find that two great regional federations are fast emerging as trustees for the future peace, sovereignty, and freedom of thought and belief, from want and fear, of a large part of the world. The U. S. S. R. has taken steps to decentralize its public administration, even to the extent of splitting up collective representation in foreign affairs among all its component parts.

The Soviet Federation has provided a formal basis for the incorporation within its membership of any or all Slavonic,

[PUBLIC LAW 236—78TH CONGRESS]

[CHAPTER 64—2D SESSION]

[H. R. 2580]

AN ACT

To grant the consent of Congress to a compact entered into by the States of South Dakota and Wyoming relating to the waters of the Belle Fourche River Basin, to make provisions concerning the exercise of Federal jurisdiction as to those waters, to promote the most efficient use of those waters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to a compact authorized by the Act entitled "An Act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested", approved February 26, 1927 (44 Stat. 1247), signed by commissioners for the States of South Dakota and Wyoming, on the 18th day of February 1943 and thereafter ratified by the act of the Legislature of South Dakota entitled "An act ratifying and approving a compact between the States of Wyoming and South Dakota for use of the waters of the Belle Fourche River, and declaring an emergency", approved March 4, 1943 and the act of the Legislature of Wyoming entitled "An act to provide for the ratification and approval of the Belle Fourche River Compact", approved March 3, 1943, which compact reads as follows:

BELLE FOURCHE RIVER COMPACT

The States of South Dakota and Wyoming, parties signatory to this compact (hereinafter referred to as South Dakota and Wyoming, respectively, or individually as a State, or collectively as the States), have resolved to conclude a compact as authorized under the Act of Congress of February 26, 1927, Chapter 216, 44 Stat. 1247, and, after negotiations participated in by the following named State Commissioners.

For South Dakota:

M. Q. Sharpe
G. W. Morsman
S. G. Mortimer
W. D. Buchholz

For Wyoming:

L. C. Bishop
Samuel McKean
L. H. Robinson
Mrs. E. E. McKean

and by Howard R. Stinson, appointed as the Representative of the United States of America, have agreed upon the following articles, to-wit:

ARTICLE I

A. The major purposes of this compact are to provide for the most efficient use of the waters of the Belle Fourche River Basin (hereinafter referred to as the Basin) for multiple purposes; to provide for an equitable division of such waters; to remove all causes, present and future, which might lead to controversies; to promote interstate comity; to recognize that the most efficient utilization of the waters within the Basin is required for the full development of the Basin; and to promote joint action by the States and the United States in the efficient use of water and the control of floods.

B. The physical and other conditions peculiar to the Basin constitute the basis for this compact; and none of the States hereby, nor the Congress of the United States by its consent, concedes that this compact establishes any general principle or precedent with respect to any other interstate stream.

C. Either State and all others using, claiming or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State, shall be subject to the terms of this compact.

ARTICLE II

As used in this compact:

A. The term "Belle Fourche River" shall mean and include the Belle Fourche River and all its tributaries originating in Wyoming.

B. The term "Basin" shall mean that area in South Dakota and Wyoming which is naturally drained by the Belle Fourche River, and all its tributaries.

C. The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

D. Where the name of the State or the term "State" or "States" is used, these shall be construed to include any person or entity of any nature whatsoever using, claiming, or in any manner asserting any right to the use of the waters of the Belle Fourche River under the authority of that State.

ARTICLE III

It shall be the duty of the two States to administer this compact through the official in each State who is now or may hereafter be charged with the duty of administering the public water supplies, and to collect and correlate through such officials the data necessary for the proper administration of the provisions of this compact. Such officials may, by unanimous action, adopt rules and regulations consistent with the provisions of this compact.

The United States Geological Survey, or whatever Federal agency may succeed to the functions and duties of that agency, insofar as this compact is concerned, shall collaborate with the officials of the States charged with the administration of this compact in the execution of the duty of such officials in the collection, correlation, and publication of information necessary for the proper administration of this compact.

ARTICLE IV

Each State shall itself or in conjunction with other responsible agencies cause to be established, maintained, and operated such suitable water gaging stations as it finds necessary to administer this compact.

ARTICLE V

A. Wyoming and South Dakota agree that the unappropriated waters of the Belle Fourche River as of the date of this compact shall be allocated to each State as follows:

90% to South Dakota

10% to Wyoming;

Provided that allocations to Wyoming shall be exclusive of the use of these waters for domestic and stock use, and Wyoming shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity. For storage of its allocated water, Wyoming shall have the privilege of purchasing at cost not to exceed 10% of the total storage capacity of any reservoir or reservoirs constructed in Wyoming for irrigation of lands in South Dakota, or may construct reservoirs itself for the purpose of utilizing such water. Either State may temporarily divert, or store for beneficial use, any unused part of the above percentages allotted to the other, but no continuing right shall be established thereby.

B. Rights to the use of the waters of the Belle Fourche River, whether based on direct diversion or storage, are hereby recognized as of the date of this compact to the extent these rights are valid under the law of the State in which the use is made, and shall remain unimpaired hereby. These rights, together with the additional allocations made under A of this Article, are agreed to be an equitable apportionment between the States of the waters of the Basin.

C. The waters allocated under A of this Article and the rights recognized under B of this Article are hereinafter referred to collectively as the apportioned water. For the purposes of the administration of this compact and determining the apportioned water at any given date within a given calendar year, there shall be taken the sum of:

(1) The quantity of water in acre-feet that passed the Wyoming-South Dakota State line during the period from January 1 of that year to that given date.

(2) The quantity of water in acre-feet in storage on that date in all reservoirs built in Wyoming on the Belle Fourche River subsequent to the date of this compact.

ARTICLE VI

Any person, entity, or State shall have the right to acquire necessary property rights in another State by purchase or through the exercise of the power of eminent domain for the construction, operation and maintenance of storage reservoirs and of appurtenant works, canals, and conduits required for the enjoyment of the privileges granted by Article V and Article VII A; provided, however, that the grantees of such rights shall pay to the political subdivisions of the State in which such works are located, each and every year during which such

rights are enjoyed for such purposes, a sum of money equivalent to the average annual amount of taxes assessed against the lands and improvements thereon during the 10 years preceding the use of such lands in reimbursement for the loss of taxes to said political subdivision of the State.

ARTICLE VII

A. Either State shall have the right, by compliance with the laws of the other State, to file applications for and receive permits to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such State for the purpose of conserving and regulating the apportioned water of the other State; provided, that such right is subject to the rights of the other State to control, regulate, and use water apportioned to it.

B. Each claim hereafter initiated for storage or diversion of water in one State for use in another State shall be filed in the Office of the State Engineer of the State in which the water is to be stored or diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the Office of the State Engineer of the State in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a State other than the one in which the water is to be stored or diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the State in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed to the end that the records in both States may be complete and identical.

C. Appropriations may hereafter be adjudicated in the State in which the water is stored or diverted, and where a portion or all of the lands irrigated are in the other State, such adjudications shall be confirmed in the latter State by the proper authority. Each adjudication is to conform with the laws of the State where the water is stored or diverted and shall be recorded in the county and State where the water is used.

ARTICLE VIII

In case any reservoir is constructed in Wyoming, to be used principally for irrigation of lands in South Dakota, sufficient water not to exceed 10 cubic feet per second shall be released at all times for stock water use.

ARTICLE IX

No reservoir hereafter built solely to utilize the water allocated to Wyoming shall have a capacity in excess of 1,000 acre-feet.

ARTICLE X

The provisions of this compact shall remain in full force and effect until amended by action of the Legislature of the States and con-

sented to and approved by the Congress of the United States in the same manner as this compact is required to be ratified to become effective.

ARTICLE XI

This compact may be terminated at any time by unanimous consent of the States, and upon such termination, all rights then established hereunder or recognized hereby shall continue to be recognized as valid by the States notwithstanding the termination of the other provisions of the compact.

ARTICLE XII

Nothing in this compact shall be construed to limit or prevent either State from instituting or maintaining any action or proceeding, legal or equitable, in any Federal court or the United States Supreme Court for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE XIII

Nothing in this compact shall be deemed:

A. To impair or affect any rights or powers of the United States, its agencies, or instrumentalities, in and to the use of the waters of the Belle Fourche River nor its capacity to acquire rights in and to the use of said waters;

B. To subject any property of the United States, its agencies, or instrumentalities to taxation by either State or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

C. To subject any property of the United States, its agencies, or instrumentalities, to the laws of any State to an extent other than the extent to which these laws would apply without regard to the compact.

ARTICLE XIV

This compact shall become operative when approved by the Legislature of each of the States, and when consented to by the Congress of the United States by legislation providing, among other things, that:

A. Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by this compact, shall be within the allocations hereinabove made for use in that State and shall be taken into account in determining the extent of use within that State.

B. The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over and to the waters of the Belle Fourche River and all its tributaries, shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the Basin is of paramount importance

to development of the Basin, and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters shall be made except upon a determination, giving due consideration to the objectives of this compact and after consultation with all interested Federal agencies and the State officials charged with the administration of this compact, that such exercise is in the interest of the best utilization of such waters for multiple purpose.

C. The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned waters which may be impaired by the exercise of Federal jurisdiction in, over, and to such waters; provided, that such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with this compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

ARTICLE XV

Should a court of competent jurisdiction hold any part of this compact to be contrary to the constitution of any State or of the United States, all other severable provisions shall continue in full force and effect.

In Witness Whereof the Commissioners have signed this compact in triplicate original, one of which shall be filed in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the States.

Done at the City of Cheyenne in the State of Wyoming, this 18th day of February, in the year of Our Lord, One Thousand Nine Hundred and Forty-three.

Commissioners for South Dakota

(Sgd) M. Q. Sharpe
M. Q. SHARPE
(Sgd) G. W. Morsman
G. W. MORSMAN
(Sgd) S. G. Mortimer
S. G. MORTIMER
(Sgd) W. D. Buchholz
W. D. BUCHHOLZ

Commissioners for Wyoming

(Sgd) L. C. Bishop
L. C. BISHOP
(Sgd) Samuel McKean
SAMUEL MCKEAN
(Sgd) L. H. Robinson
L. H. ROBINSON
(Sgd) Mrs. E. E. McKean
MRS. E. E. MCKEAN

I have participated in the negotiation of this compact and intend to report favorably thereon to the Congress of the United States.

(Sgd) Howard R. Stinson
HOWARD R. STINSON,
Representative of the United States of America.

SEC. 2. (a) In order that the conditions stated in article XIV of the compact hereby consented to shall be met and that the compact shall be and continue to be operative, the following provisions are enacted:

(1) Any beneficial uses hereafter made by the United States, or those acting by or under its authority, within a State, of the waters allocated by such compact, shall be within the allocations made by such compact for use in that State and shall be taken into account in determining the extent of use within that State;

(2) The United States, or those acting by or under its authority, in the exercise of rights or powers arising from whatever jurisdiction the United States has in, over, and to the waters of the Belle Fourche River and all its tributaries shall recognize, to the extent consistent with the best utilization of the waters for multiple purposes, that beneficial use of the waters within the Basin is of paramount importance to the development of the Basin; and no exercise of such power or right thereby that would interfere with the full beneficial use of the waters within the Basin shall be made except upon a determination, giving due consideration to the objectives of such compact and after consultation with all interested Federal agencies and the State officials charged with the administration of such compact, that such exercise is in the interest of the best utilization of such waters for multiple purposes;

(3) The United States, or those acting by or under its authority, will recognize any established use, for domestic and irrigation purposes, of the apportioned water which may be impaired by the exercise of Federal jurisdiction in, over, and to such water: *Provided*, That such use is being exercised beneficially, is valid under the laws of the appropriate State and in conformity with such compact at the time of the impairment thereof, and was validly initiated under State law prior to the initiation or authorization of the Federal program or project which causes such impairment.

(b) As used in this section, the following terms: "beneficial use", "Basin", and "apportioned water", shall have the same meanings as those ascribed to them in the compact consented to by this Act.

Approved February 26, 1944.

